

SENATE AMENDMENTS

2nd Printing

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H.B. No. 7

A BILL TO BE ENTITLED

AN ACT

relating to child protective services suits, motions, and services
by the Department of Family and Protective Services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 58.0052, Family Code, is amended by
adding Subsection (b-1) to read as follows:

(b-1) In addition to the information provided under
Subsection (b), the Department of Family and Protective Services
and the Texas Juvenile Justice Department shall coordinate and
develop protocols for sharing with each other, on request, any
other information relating to a multi-system youth necessary to:

(1) identify and coordinate the provision of services
to the youth and prevent duplication of services;

(2) enhance rehabilitation of the youth; and

(3) improve and maintain community safety.

SECTION 2. Section 102.004, Family Code, is amended by
amending Subsection (b) and adding Subsection (b-1) to read as
follows:

(b) An original suit requesting possessory conservatorship
may not be filed by a grandparent or other person. However, the
court may grant a grandparent or other person, subject to the
requirements of Subsection (b-1) if applicable, deemed by the court
to have had substantial past contact with the child leave to
intervene in a pending suit filed by a person authorized to do so

1 under this chapter [~~subchapter~~] if there is satisfactory proof to
2 the court that appointment of a parent as a sole managing
3 conservator or both parents as joint managing conservators would
4 significantly impair the child's physical health or emotional
5 development.

6 (b-1) A foster parent may only be granted leave to intervene
7 under Subsection (b) if the foster parent would have standing to
8 file an original suit as provided by Section 102.003(a)(12).

9 SECTION 3. Section 105.002, Family Code, is amended by
10 adding Subsection (d) to read as follows:

11 (d) The Department of Family and Protective Services in
12 collaboration with interested parties, including the Permanent
13 Judicial Commission for Children, Youth and Families, shall review
14 the form of jury submissions in this state and make recommendations
15 to the legislature not later than December 31, 2017, regarding
16 whether broad-form or specific jury questions should be required in
17 suits affecting the parent-child relationship filed by the
18 department. This subsection expires September 1, 2019.

19 SECTION 4. Sections 107.002(b) and (c), Family Code, are
20 amended to read as follows:

21 (b) A guardian ad litem appointed for the child under this
22 chapter shall:

23 (1) within a reasonable time after the appointment,
24 interview:

25 (A) the child in a developmentally appropriate
26 manner, if the child is four years of age or older;

27 (B) each person who has significant knowledge of

the child's history and condition, including educators, child welfare service providers, and any foster parent of the child; and

(C) the parties to the suit;

(2) seek to elicit in a developmentally appropriate manner the child's expressed objectives;

(3) consider the child's expressed objectives without being bound by those objectives;

(4) encourage settlement and the use of alternative forms of dispute resolution; and

(5) perform any specific task directed by the court.

(c) A guardian ad litem appointed for the child under this chapter is entitled to:

(1) receive a copy of each pleading or other paper filed with the court in the case in which the guardian ad litem is appointed;

(2) receive notice of each hearing in the case;

(3) participate in case staffings by the Department of Family and Protective Services concerning the child;

(4) attend all legal proceedings in the case but may not call or question a witness or otherwise provide legal services unless the guardian ad litem is a licensed attorney who has been appointed in the dual role;

(5) review and sign, or decline to sign, an agreed order affecting the child; ~~and~~

(6) explain the basis for the guardian ad litem's opposition to the agreed order if the guardian ad litem does not agree to the terms of a proposed order;

1 (7) have access to the child in the child's placement;

2 (8) be consulted and provide comments on decisions
3 regarding placement, including kinship, foster care, and adoptive
4 placements;

5 (9) receive notification regarding and an invitation
6 to attend meetings related to the child's service plan and a copy of
7 the plan; and

8 (10) attend court-ordered mediation regarding the
9 child's case.

10 SECTION 5. Section 107.004, Family Code, is amended by
11 adding Subsection (d-3) to read as follows:

12 (d-3) An attorney ad litem appointed to represent a child in
13 the managing conservatorship of the Department of Family and
14 Protective Services shall periodically continue to review the
15 child's safety and well-being, including any effects of trauma to
16 the child, and take appropriate action, including requesting a
17 review hearing when necessary to address an issue of concern.

18 SECTION 6. Section 107.016, Family Code, is amended to read
19 as follows:

20 Sec. 107.016. CONTINUED REPRESENTATION; DURATION OF
21 APPOINTMENT. In a suit filed by a governmental entity in which
22 termination of the parent-child relationship or appointment of the
23 entity as conservator of the child is requested:

24 (1) an order appointing the Department of Family and
25 Protective Services as the child's managing conservator may provide
26 for the continuation of the appointment of the guardian ad litem [~~or~~
27 ~~attorney ad litem~~] for the child for any period during the time the

1 child remains in the conservatorship of the department, as set by
2 the court; [and]

3 (2) subject to Section 263.4042, an order appointing
4 the Department of Family and Protective Services as the child's
5 managing conservator shall provide for the continuation of the
6 appointment of the attorney ad litem for the child as long as the
7 child remains in the conservatorship of the department; and

8 (3) an attorney appointed under this subchapter to
9 serve as an attorney ad litem for a parent or an alleged father
10 continues to serve in that capacity until the earliest of:

11 (A) the date the suit affecting the parent-child
12 relationship is dismissed;

13 (B) the date all appeals in relation to any final
14 order terminating parental rights are exhausted or waived; or

15 (C) the date the attorney is relieved of the
16 attorney's duties or replaced by another attorney after a finding
17 of good cause is rendered by the court on the record.

18 SECTION 7. Section 154.001(b), Family Code, is amended to
19 read as follows:

20 (b) Unless a court has determined a parent is indigent, the
21 [The] court may order either or both parents to make periodic
22 payments for the support of a child in a proceeding in which the
23 Department of Family and Protective [and Regulatory] Services is
24 named [temporary] managing conservator. [In a proceeding in which
25 the Department of Protective and Regulatory Services is named
26 permanent managing conservator of a child whose parents' rights
27 have not been terminated, the court shall order each parent that is

1 ~~financially able to make periodic payments for the support of the~~
2 ~~child.]~~

3 SECTION 8. Section 155.201, Family Code, is amended by
4 adding Subsection (d) to read as follows:

5 (d) On receiving notice that a court exercising
6 jurisdiction under Chapter 262 has ordered the transfer of a suit
7 under Section 262.203(a)(2), the court of continuing, exclusive
8 jurisdiction shall, pursuant to the requirements of Section
9 155.204(i), transfer the proceedings to the court in which the suit
10 under Chapter 262 is pending.

11 SECTION 9. Section 155.204(i), Family Code, is amended to
12 read as follows:

13 (i) If a transfer order has been signed by a court
14 exercising jurisdiction under Chapter 262, the Department of Family
15 and Protective Services shall ~~[a party may]~~ file the transfer order
16 with the clerk of the court of continuing, exclusive jurisdiction.
17 On receipt and without a hearing or further order from the court of
18 continuing, exclusive jurisdiction, the clerk of the court of
19 continuing, exclusive jurisdiction shall transfer the files as
20 provided by this subchapter.

21 SECTION 10. (a) Section 161.001, Family Code, is amended by
22 adding Subsections (c), (d), and (e) to read as follows:

23 (c) A court may not make a finding under Subsection (b) and
24 order termination of the parent-child relationship based on
25 evidence that the parent:

26 (1) homeschooled the child;

27 (2) is economically disadvantaged;

1 (3) engaged in reasonable discipline of the child; or
2 (4) has been charged with a nonviolent misdemeanor
3 offense other than:

4 (A) an offense under Title 5, Penal Code;
5 (B) an offense under Title 6, Penal Code; or
6 (C) an offense that involves family violence, as
7 defined by Section 71.004 of this code;

8 (5) provided or administered:

9 (A) medical cannabis to a child for whom the
10 medical cannabis was recommended under Chapter 169, Occupations
11 Code; or

12 (B) a product that contains THC to a child, if the
13 parent believes that the provision or administration of the product
14 is in the best interest of the child, and the child meets the
15 requirements of Sections 169.003(1) and (2), Occupations Code; or

16 (6) declined immunization for the child for reasons of
17 conscience, including a religious belief.

18 (d) A court may not order termination under Subsection
19 (b)(1)(O) based on the failure by the parent to comply with a
20 specific provision of a court order if a parent proves by a
21 preponderance of evidence that:

22 (1) the parent was unable to comply with specific
23 provisions of the court order; and

24 (2) the parent made a good faith effort to comply with
25 the order and the failure to comply with the order is not
26 attributable to any fault of the parent.

27 (e) This section does not prohibit the Department of Family

1 and Protective Services from offering evidence described by
2 Subsection (c) as part of an action to terminate the parent-child
3 relationship under this subchapter.

4 (b) This section takes effect only if H.B. No. 2107, Acts of
5 the 85th Legislature, Regular Session, 2017, or similar legislation
6 authorizing the use of medical cannabis is enacted and becomes law.
7 If H.B. No. 2107, Acts of the 85th Legislature, Regular Session,
8 2017, or similar legislation authorizing the use of medical
9 cannabis is not enacted or does not become law, this section has no
10 effect.

11 SECTION 11. (a) Section 161.001, Family Code, is amended by
12 adding Subsections (c), (d), and (e) to read as follows:

13 (c) A court may not make a finding under Subsection (b) and
14 order termination of the parent-child relationship based on
15 evidence that the parent:

16 (1) homeschooled the child;
17 (2) is economically disadvantaged;
18 (3) engaged in reasonable discipline of the child;
19 (4) has been charged with a nonviolent misdemeanor
20 offense other than:

21 (A) an offense under Title 5, Penal Code;
22 (B) an offense under Title 6, Penal Code; or
23 (C) an offense that involves family violence, as
24 defined by Section 71.004 of this code;

25 (5) provided or administered low-THC cannabis to a
26 child for whom the low-THC cannabis was prescribed under Chapter
27 169, Occupations Code; or

1 (6) declined immunization for the child for reasons of
2 conscience, including a religious belief.

3 (d) A court may not order termination under Subsection
4 (b)(1)(O) based on the failure by the parent to comply with a
5 specific provision of a court order if a parent proves by a
6 preponderance of evidence that:

7 (1) the parent was unable to comply with specific
8 provisions of the court order; and

9 (2) the parent made a good faith effort to comply with
10 the order and the failure to comply with the order is not
11 attributable to any fault of the parent.

12 (e) This section does not prohibit the Department of Family
13 and Protective Services from offering evidence described by
14 Subsection (c) as part of an action to terminate the parent-child
15 relationship under this subchapter.

16 (b) This section takes effect only if H.B. No. 2107, Acts of
17 the 85th Legislature, Regular Session, 2017, or similar legislation
18 authorizing the use of medical cannabis is not enacted or does not
19 become law. If H.B. No. 2107, Acts of the 85th Legislature, Regular
20 Session, 2017, or similar legislation authorizing the use of
21 medical cannabis is enacted and becomes law, this section has no
22 effect.

23 SECTION 12. Section 161.206, Family Code, is amended by
24 adding Subsection (a-1) to read as follows:

25 (a-1) In a suit filed by the Department of Family and
26 Protective Services seeking termination of the parent-child
27 relationship for more than one parent of the child, the court may

order termination of the parent-child relationship for a parent only if the court finds by clear and convincing evidence grounds for the termination of the parent-child relationship for that parent.

SECTION 13. Chapter 261, Family Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT

Sec. 261.501. FILING APPLICATION FOR PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT. The department may file an application for a protective order for a child's protection under this subchapter on the department's own initiative or jointly with a parent, relative, or caregiver of the child who requests the filing of the application if the department:

(1) has temporary managing conservatorship of the child;

(2) determines that:

(A) the child:

(i) is a victim of abuse or neglect; or

(ii) has a history of being abused or neglected; and

(B) there is a threat of:

(i) immediate or continued abuse or neglect to the child;

(ii) someone illegally taking the child from the home in which the child is placed;

(iii) behavior that poses a threat to the caregiver with whom the child is placed; or

(iv) someone committing an act of violence

1 against the child or the child's caregiver; and

2 (3) is not otherwise authorized to apply for a
3 protective order for the child's protection under Chapter 82.

4 Sec. 261.502. CERTIFICATION OF FINDINGS. (a) In making the
5 application under this subchapter, the department must certify
6 that:

7 (1) the department has diligently searched for and:

8 (A) was unable to locate the child's parent,
9 legal guardian, or custodian, other than the respondent to the
10 application; or

11 (B) located and provided notice of the proposed
12 application to the child's parent, legal guardian, or custodian,
13 other than the respondent to the application; and

14 (2) if applicable, the relative or caregiver who is
15 jointly filing the petition, or with whom the child would reside
16 following an entry of the protective order, has not abused or
17 neglected the child and does not have a history of abuse or neglect.

18 (b) An application for a temporary ex parte order under
19 Section 261.503 may be filed without making the findings required
20 by Subsection (a) if the department certifies that the department
21 believes that there is an immediate danger of abuse or neglect to
22 the child.

23 Sec. 261.503. TEMPORARY EX PARTE ORDER. If the court finds
24 from the information contained in an application for a protective
25 order that there is an immediate danger of abuse or neglect to the
26 child, the court, without further notice to the respondent and
27 without a hearing, may enter a temporary ex parte order for the

protection of the child.

Sec. 261.504. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE ORDER. (a) At the close of a hearing on an application for a protective order under this subchapter, the court shall find whether there are reasonable grounds to believe that:

(1) the child:

(A) is a victim of abuse or neglect; or

(B) has a history of being abused or neglected;

and

(2) there is a threat of:

(A) immediate or continued abuse or neglect to the child;

(B) someone illegally taking the child from the home in which the child is placed;

(C) behavior that poses a threat to the caregiver with whom the child is placed; or

(D) someone committing an act of violence against the child or the child's caregiver.

(b) If the court makes an affirmative finding under Subsection (a), the court shall issue a protective order that includes a statement of that finding.

Sec. 261.505. APPLICATION OF OTHER LAW. To the extent applicable, except as otherwise provided by this subchapter, Title 4 applies to a protective order issued under this subchapter.

SECTION 14. Subchapter A, Chapter 262, Family Code, is amended by adding Section 262.0022 to read as follows:

Sec. 262.0022. REVIEW OF PLACEMENT; FINDINGS. At each

hearing under this chapter, the court shall review the placement of each child in the temporary or permanent managing conservatorship of the Department of Family and Protective Services who is not placed with a relative caregiver or designated caregiver as defined by Section 264.751. The court shall include in its findings a statement on whether the department has the option of placing the child with a relative or other designated caregiver.

SECTION 15. Subchapter A, Chapter 262, Family Code, is amended by adding Sections 262.013 and 262.014 to read as follows:

Sec. 262.013. VOLUNTARY TEMPORARY MANAGING CONSERVATORSHIP. In a suit affecting the parent-child relationship filed by the Department of Family and Protective Services, the existence of a parent's voluntary agreement to temporarily place the parent's child in the managing conservatorship of the Department of Family and Protective Services is not an admission by the parent that the parent engaged in conduct that endangered the child.

Sec. 262.014. DISCLOSURE OF CERTAIN EVIDENCE. On the request of the attorney for a parent who is a party in a suit affecting the parent-child relationship filed under this chapter, or the attorney ad litem for the parent's child, the Department of Family and Protective Services shall, before the full adversary hearing, provide:

(1) the name of any person, excluding a department employee, who the department will call as a witness to any of the allegations contained in the petition filed by the department;

(2) a copy of any offense report relating to the

1 allegations contained in the petition filed by the department that
2 will be used in court to refresh a witness's memory; and

3 (3) a copy of any photograph, video, or recording that
4 will be presented as evidence.

5 SECTION 16. Section 262.113, Family Code, is amended to
6 read as follows:

7 Sec. 262.113. FILING SUIT WITHOUT TAKING POSSESSION OF
8 CHILD. An original suit filed by a governmental entity that
9 requests to take possession of a child after notice and a hearing
10 must be supported by an affidavit sworn to by a person with personal
11 knowledge and stating facts sufficient to satisfy a person of
12 ordinary prudence and caution that:

13 (1) there is a continuing danger to the physical
14 health or safety of the child caused by an act or failure to act of
15 the person entitled to possession of the child and that allowing the
16 child to remain in the home would be contrary to the child's
17 welfare; and

18 (2) reasonable efforts, consistent with the
19 circumstances and providing for the safety of the child, have been
20 made to prevent or eliminate the need to remove the child from the
21 child's home[, and

22 ~~[(2) allowing the child to remain in the home would be~~
23 ~~contrary to the child's welfare].~~

24 SECTION 17. (a) Subchapter B, Chapter 262, Family Code, is
25 amended by adding Section 262.116 to read as follows:

26 Sec. 262.116. LIMITS ON REMOVAL. (a) The Department of
27 Family and Protective Services may not take possession of a child

under this subchapter based on evidence that the parent:

(1) homeschooled the child;

(2) is economically disadvantaged;

(3) engaged in reasonable discipline of the child;

(4) has been charged with a nonviolent misdemeanor offense other than:

(A) an offense under Title 5, Penal Code;

(B) an offense under Title 6, Penal Code; or

(C) an offense that involves family violence, as defined by Section 71.004 of this code;

(5) provided or administered:

(A) medical cannabis to a child for whom the medical cannabis was recommended under Chapter 169, Occupations Code; or

(B) a product that contains THC to a child, if the parent believes that the provision or administration of the product is in the best interest of the child, and the child meets the requirements of Sections 169.003(1) and (2), Occupations Code; or

(6) declined immunization for the child for reasons of conscience, including a religious belief.

(b) The department shall train child protective services caseworkers regarding the prohibitions on removal provided under Subsection (a).

(c) The executive commissioner of the Health and Human Services Commission may adopt rules to implement this section.

(d) This section does not prohibit the department from offering evidence described by Subsection (a) as part of an action

1 to take possession of a child under this subchapter.

2 (b) This section takes effect only if H.B. No. 2107, Acts of
3 the 85th Legislature, Regular Session, 2017, or similar legislation
4 authorizing the use of medical cannabis is enacted and becomes law.
5 If H.B. No. 2107, Acts of the 85th Legislature, Regular Session,
6 2017, or similar legislation authorizing the use of medical
7 cannabis is not enacted or does not become law, this section has no
8 effect.

9 SECTION 18. (a) Subchapter B, Chapter 262, Family Code, is
10 amended by adding Section 262.116 to read as follows:

11 Sec. 262.116. LIMITS ON REMOVAL. (a) The Department of
12 Family and Protective Services may not take possession of a child
13 under this subchapter based on evidence that the parent:

14 (1) homeschooled the child;
15 (2) is economically disadvantaged;
16 (3) engaged in reasonable discipline of the child;
17 (4) has been charged with a nonviolent misdemeanor
18 offense other than:

19 (A) an offense under Title 5, Penal Code;
20 (B) an offense under Title 6, Penal Code; or
21 (C) an offense that involves family violence, as
22 defined by Section 71.004 of this code;

23 (5) provided or administered low-THC cannabis to a
24 child for whom the low-THC cannabis was prescribed under Chapter
25 169, Occupations Code; or

26 (6) declined immunization for the child for reasons of
27 conscience, including a religious belief.

1 (b) The department shall train child protective services
2 caseworkers regarding the prohibitions on removal provided under
3 Subsection (a).

4 (c) The executive commissioner of the Health and Human
5 Services Commission may adopt rules to implement this section.

6 (d) This section does not prohibit the department from
7 offering evidence described by Subsection (a) as part of an action
8 to take possession of a child under this subchapter.

9 (b) This section takes effect only if H.B. No. 2107, Acts of
10 the 85th Legislature, Regular Session, 2017, or similar legislation
11 authorizing the use of medical cannabis is not enacted or does not
12 become law. If H.B. No. 2107, Acts of the 85th Legislature, Regular
13 Session, 2017, or similar legislation authorizing the use of
14 medical cannabis is enacted and becomes law, this section has no
15 effect.

16 SECTION 19. Section 262.201, Family Code, is amended by
17 adding Subsection (a-5) to read as follows:

18 (a-5) If a parent who is not indigent appears in opposition
19 to the suit, the court may, for good cause shown, postpone the full
20 adversary hearing for not more than seven days from the date of the
21 parent's appearance to allow the parent to hire an attorney or to
22 provide the parent's attorney time to respond to the petition and
23 prepare for the hearing. A postponement under this subsection is
24 subject to the limits and requirements prescribed by Subsection
25 (a-3).

26 SECTION 20. Section 262.203(a), Family Code, is amended to
27 read as follows:

1 (a) On the motion of a party or the court's own motion, if
2 applicable, the court that rendered the temporary order shall in
3 accordance with procedures provided by Chapter 155:

4 (1) transfer the suit to the court of continuing,
5 exclusive jurisdiction, if any, if the court finds that the
6 transfer is:

7 (A) necessary for the convenience of the parties;
8 and

9 (B) in the best interest of the child;

10 (2) ~~[if grounds exist for mandatory transfer from the~~
11 ~~court of continuing, exclusive jurisdiction under Section~~
12 ~~155.201,]~~ order transfer of the suit from the ~~[that]~~ court of
13 continuing, exclusive jurisdiction; or

14 (3) if grounds exist for transfer based on improper
15 venue, order transfer of the suit to the court having venue of the
16 suit under Chapter 103.

17 SECTION 21. Subchapter C, Chapter 262, Family Code, is
18 amended by adding Section 262.206 to read as follows:

19 Sec. 262.206. EX PARTE HEARINGS PROHIBITED. Unless
20 otherwise authorized by this chapter or other law, a hearing held by
21 a court in a suit under this chapter may not be ex parte.

22 SECTION 22. Section 263.002, Family Code, is amended to
23 read as follows:

24 Sec. 263.002. REVIEW OF PLACEMENTS BY COURT; FINDINGS. (a)
25 In a suit affecting the parent-child relationship in which the
26 department has been appointed by the court or designated in an
27 affidavit of relinquishment of parental rights as the temporary or

1 permanent managing conservator of a child, the court shall hold a
2 hearing to review:

3 (1) the conservatorship appointment and substitute
4 care; and

5 (2) for a child committed to the Texas Juvenile
6 Justice Department, the child's commitment in the Texas Juvenile
7 Justice Department or release under supervision by the Texas
8 Juvenile Justice Department.

9 (b) At each hearing under this chapter, the court shall
10 review the placement of each child in the temporary or permanent
11 managing conservatorship of the department who is not placed with a
12 relative caregiver or designated caregiver as defined by Section
13 264.751. The court shall include in its findings a statement
14 whether the department placed the child with a relative or other
15 designated caregiver.

16 (c) At the permanency hearing before a final order under
17 this chapter, the court shall review the placement of each child in
18 the temporary or permanent managing conservatorship of the
19 department who has not been returned to the child's home. The court
20 shall make a finding as to any continuing danger to the physical
21 health or safety of the child in the home, whether the return is in
22 the best interest of the child, and whether it is contrary to the
23 welfare of the child for the child to return home.

24 SECTION 23. Section 263.0021, Family Code, is amended by
25 adding Subsections (e) and (f) to read as follows:

26 (e) Notice of a hearing under this chapter provided to an
27 individual listed under Subsection (b)(2) must state that the

individual may, but is not required to, attend the hearing and may request to be heard at the hearing.

(f) In a hearing under this chapter, the court shall call an individual listed under Subsection (b)(2) and the individual, at the individual's discretion, may appear at the hearing and present evidence and be heard regardless of whether either party calls the individual to testify. If the individual testifies at the hearing, the individual may be cross-examined by either party.

SECTION 24. Section 263.102, Family Code, is amended by amending Subsection (b) and adding Subsections (c) and (c-1) to read as follows:

(b) The service plan must ~~[shall]~~ include the following statement:

TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. THE [ITS] PURPOSE OF THIS PLAN IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU. AT [THERE WILL BE] A COURT HEARING, [AT WHICH] A JUDGE WILL REVIEW THIS SERVICE PLAN, MODIFY THE PLAN IF NECESSARY, AND REQUIRE COMPLIANCE WITH THE PLAN. A SUBSEQUENT HEARING MAY BE SCHEDULED AT WHICH A JUDGE MAY REVIEW THE PLAN.

(c) A service plan may not include an allegation of abuse or neglect of the child or a restatement of the facts of the case. An allegation of abuse or neglect or a restatement of the facts of the case in a service plan is inadmissible in the court as evidence.

1 (c-1) Not later than the fifth business day after a hearing
2 held under Section 262.201, the department shall:

3 (1) make all referrals necessary for each parent to
4 comply with a judge's order for services; and

5 (2) provide to the parents any information available
6 to the department on providers approved by the department to
7 provide services in the service area in which the parent resides.

8 SECTION 25. (a) Section 263.306(a-1), Family Code, is
9 amended to conform to the amendment of Section 263.306(a), Family
10 Code, by Chapter 697 (H.B. 825), Acts of the 84th Legislature,
11 Regular Session, 2015, to read as follows:

12 (a-1) At each permanency hearing before a final order is
13 rendered, the court shall:

14 (1) identify all persons and parties present at the
15 hearing, determine whether the child's caregiver is present, and
16 allow the caregiver to testify if the caregiver wishes to provide
17 information about the child;

18 (2) review the efforts of the department or other
19 agency in:

20 (A) locating and requesting service of citation
21 on all persons entitled to service of citation under Section
22 102.009; and

23 (B) obtaining the assistance of a parent in
24 providing information necessary to locate an absent parent, alleged
25 father, or relative of the child;

26 (3) ask all parties present whether the child or the
27 child's family has a Native American heritage and identify any

1 Native American tribe with which the child may be associated;

2 (4) review the extent of the parties' compliance with
3 temporary orders and the service plan and the extent to which
4 progress has been made toward alleviating or mitigating the causes
5 necessitating the placement of the child in foster care;

6 (5) [~~(4)~~] review the permanency progress report to
7 determine:

8 (A) the safety and well-being of the child and
9 whether the child's needs, including any medical or special needs,
10 are being adequately addressed;

11 (B) the continuing necessity and appropriateness
12 of the placement of the child, including with respect to a child who
13 has been placed outside of this state, whether the placement
14 continues to be in the best interest of the child;

15 (C) the appropriateness of the primary and
16 alternative permanency goals for the child developed in accordance
17 with department rule and whether the department has made reasonable
18 efforts to finalize the permanency plan, including the concurrent
19 permanency goals, in effect for the child;

20 (D) whether the child has been provided the
21 opportunity, in a developmentally appropriate manner, to express
22 the child's opinion on any medical care provided;

23 (E) for a child receiving psychotropic
24 medication, whether the child:

25 (i) has been provided appropriate
26 nonpharmacological interventions, therapies, or strategies to meet
27 the child's needs; or

(ii) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days;

(F) whether an education decision-maker for the child has been identified, the child's education needs and goals have been identified and addressed, and there have been major changes in the child's school performance or there have been serious disciplinary events;

(G) for a child 14 years of age or older, whether services that are needed to assist the child in transitioning from substitute care to independent living are available in the child's community; and

(H) for a child whose permanency goal is another planned permanent living arrangement:

(i) the desired permanency outcome for the child, by asking the child; and

(ii) whether, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and, if so, provide compelling reasons why it continues to not be in the best interest of the child to:

(a) return home;

(b) be placed for adoption;

(c) be placed with a legal guardian;

or

(d) be placed with a fit and willing relative;

(6) [~~(5)~~] determine whether to return the child to the

1 child's parents if the child's parents are willing and able to
2 provide the child with a safe environment and the return of the
3 child is in the child's best interest;

4 (7) [~~(6)~~] estimate a likely date by which the child
5 may be returned to and safely maintained in the child's home, placed
6 for adoption, or placed in permanent managing conservatorship; and

7 (8) [~~(7)~~] announce in open court the dismissal date
8 and the date of any upcoming hearings.

9 (b) Section 263.306(c), Family Code, is amended to conform
10 to the amendment of Section 263.306, Family Code, by Chapter 944
11 (S.B. 206), Acts of the 84th Legislature, Regular Session, 2015, to
12 read as follows:

13 (c) In addition to the requirements of Subsection (a-1)
14 [~~(a)~~], at each permanency hearing the court shall review the
15 department's efforts to ensure that the child has regular, ongoing
16 opportunities to engage in age-appropriate normalcy activities,
17 including activities not listed in the child's service plan.

18 (c) Section 263.306(a), Family Code, is repealed to conform
19 to the repeal of Section 263.306(a), Family Code, by Chapter 944
20 (S.B. 206), Acts of the 84th Legislature, Regular Session, 2015.

21 SECTION 26. Section 263.401, Family Code, is amended to
22 read as follows:

23 Sec. 263.401. DISMISSAL AFTER ONE YEAR; NEW TRIALS;
24 EXTENSION. (a) Unless the court has commenced the trial on the
25 merits or granted an extension under Subsection (b) or (b-1), on the
26 first Monday after the first anniversary of the date the court
27 rendered a temporary order appointing the department as temporary

managing conservator, the court's jurisdiction over [~~court shall~~
~~dismiss~~] the suit affecting the parent-child relationship filed by
the department that requests termination of the parent-child
relationship or requests that the department be named conservator
of the child is terminated and the suit is automatically dismissed
without a court order.

(b) Unless the court has commenced the trial on the merits,
the court may not retain the suit on the court's docket after the
time described by Subsection (a) unless the court finds that
extraordinary circumstances necessitate the child remaining in the
temporary managing conservatorship of the department and that
continuing the appointment of the department as temporary managing
conservator is in the best interest of the child. If the court
makes those findings, the court may retain the suit on the court's
docket for a period not to exceed 180 days after the time described
by Subsection (a). If the court retains the suit on the court's
docket, the court shall render an order in which the court:

(1) schedules the new date on which the suit will be
automatically dismissed if the trial on the merits has not
commenced, which date must be not later than the 180th day after the
time described by Subsection (a);

(2) makes further temporary orders for the safety and
welfare of the child as necessary to avoid further delay in
resolving the suit; and

(3) sets the trial on the merits on a date not later
than the date specified under Subdivision (1).

(b-1) If, after commencement of the initial trial on the

merits within the time required by Subsection (a) or (b), the court grants a motion for a new trial or mistrial, or the case is remanded to the court by an appellate court following an appeal of the court's final order, the court shall retain the suit on the court's docket and render an order in which the court:

(1) schedules a new date on which the suit will be automatically dismissed if the new trial has not commenced, which must be a date not later than the 180th day after the date on which:

(A) the motion for a new trial or mistrial is granted; or

(B) the appellate court remanded the case;

(2) makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and

(3) sets the new trial on the merits for a date not later than the date specified under Subdivision (1).

(c) If the court grants an extension under Subsection (b) or (b-1) but does not commence the trial on the merits before the dismissal date, the court's jurisdiction over ~~[court shall dismiss]~~ the suit is terminated and the suit is automatically dismissed without a court order. The court may not grant an additional extension that extends the suit beyond the required date for dismissal under Subsection (b) or (b-1), as applicable.

SECTION 27. Section 263.402, Family Code, is amended to read as follows:

Sec. 263.402. LIMIT ON EXTENSION~~[, WAIVER]~~. ~~[(a)]~~ The parties to a suit under this chapter may not extend the deadlines

set by the court under this subchapter by agreement or otherwise.

~~[(b) A party to a suit under this chapter who fails to make a timely motion to dismiss the suit under this subchapter waives the right to object to the court's failure to dismiss the suit. A motion to dismiss under this subsection is timely if the motion is made before the trial on the merits commences.]~~

SECTION 28. Section 263.403, Family Code, is amended by amending Subsections (a) and (c) and adding Subsection (a-1) to read as follows:

(a) Notwithstanding Section 263.401, the court may retain jurisdiction and not dismiss the suit or render a final order as required by that section if the court renders a temporary order that:

(1) finds that retaining jurisdiction under this section is in the best interest of the child;

(2) orders the department to:

(A) return the child to the child's parent; or

(B) transition the child, according to a schedule determined by the department or court, from substitute care to the parent while the parent completes the remaining requirements imposed under a service plan and specified in the temporary order that are necessary for the child's return;

(3) orders the department to continue to serve as temporary managing conservator of the child; and

(4) orders the department to monitor the child's placement to ensure that the child is in a safe environment.

(a-1) The department or the parent may request the court to

1 retain jurisdiction for an additional six months as necessary for a
2 parent to complete the remaining requirements in a service plan and
3 specified in the temporary order that are mandatory for the child's
4 return.

5 (c) If before the dismissal of the suit or the commencement
6 of the trial on the merits a child placed with a parent under this
7 section must be moved from that home by the department or the court
8 renders a temporary order terminating the transition order issued
9 under Subsection (a)(2)(B) [~~before the dismissal of the suit or the~~
10 ~~commencement of the trial on the merits]~~, the court shall, at the
11 time of the move or order, schedule a new date for dismissal of the
12 suit [~~unless a trial on the merits has commenced~~]. The new
13 dismissal date may not be later than the original dismissal date
14 established under Section 263.401 or the 180th day after the date
15 the child is moved or the order is rendered under this subsection,
16 whichever date is later.

17 SECTION 29. Subchapter E, Chapter 263, Family Code, is
18 amended by adding Section 263.4042 to read as follows:

19 Sec. 263.4042. CONTINUED APPOINTMENT OF ATTORNEY AD LITEM
20 AFTER FINAL ORDER. (a) On the entry of a final order terminating
21 the parent-child relationship and naming the Department of Family
22 and Protective Services as the child's managing conservator, the
23 court may discharge the attorney ad litem appointed for the child if
24 the court finds that:

25 (1) the child has a representative authorized by the
26 court to represent the legal interests of the child and discharge of
27 the attorney ad litem is in the child's best interest; or

1 (2) the child:

2 (A) resides in the home identified in the child's
3 permanency plan as the child's permanent home;

4 (B) has an attorney ad litem or guardian ad litem
5 who does not object to the child's permanency plan; and

6 (C) has resided in the home described by
7 Paragraph (A) for at least three months.

8 (b) If a court renders an order discharging a child's
9 attorney ad litem under Subsection (a), at each permanency hearing
10 following the final order held under Section 263.501, the court
11 shall make the findings required by Section 263.5031.

12 SECTION 30. Subchapter E, Chapter 263, Family Code, is
13 amended by adding Section 263.4055 to read as follows:

14 Sec. 263.4055. SUPREME COURT RULES. The supreme court by
15 rule shall establish civil and appellate procedures to address:

16 (1) conflicts between the filing of a motion for new
17 trial and the filing of an appeal of a final order rendered under
18 this chapter; and

19 (2) the period, including an extension of at least 20
20 days, for a court reporter to submit the reporter's record of a
21 trial to an appellate court following a final order rendered under
22 this chapter.

23 SECTION 31. Section 263.5031, Family Code, is amended to
24 read as follows:

25 Sec. 263.5031. PERMANENCY HEARINGS FOLLOWING FINAL ORDER.

26 (a) At each permanency hearing after the court renders a final
27 order, the court shall:

1 (1) identify all persons and parties present at the
2 hearing, determine whether the child's caregiver is present, and
3 allow the caregiver to testify if the caregiver wishes to provide
4 information about the child;

5 (2) review the efforts of the department or other
6 agency in notifying persons entitled to notice under Section
7 263.0021; ~~and~~

8 (3) review the permanency progress report to
9 determine:

10 (A) the safety and well-being of the child and
11 whether the child's needs, including any medical or special needs,
12 are being adequately addressed;

13 (B) whether the department placed the child with
14 a relative or other designated caregiver and the continuing
15 necessity and appropriateness of the placement of the child,
16 including with respect to a child who has been placed outside of
17 this state, whether the placement continues to be in the best
18 interest of the child;

19 (C) if the child is placed in institutional care,
20 whether efforts have been made to ensure that the child is placed in
21 the least restrictive environment consistent with the child's best
22 interest and special needs;

23 (D) the appropriateness of the primary and
24 alternative permanency goals for the child, whether the department
25 has made reasonable efforts to finalize the permanency plan,
26 including the concurrent permanency goals, in effect for the child,
27 and whether:

1 (i) the department has exercised due
2 diligence in attempting to place the child for adoption if parental
3 rights to the child have been terminated and the child is eligible
4 for adoption; or

5 (ii) another permanent placement,
6 including appointing a relative as permanent managing conservator
7 or returning the child to a parent, is appropriate for the child;

8 (E) for a child whose permanency goal is another
9 planned permanent living arrangement:

10 (i) the desired permanency outcome for the
11 child, by asking the child; and

12 (ii) whether, as of the date of the hearing,
13 another planned permanent living arrangement is the best permanency
14 plan for the child and, if so, provide compelling reasons why it
15 continues to not be in the best interest of the child to:

- 16 (a) return home;
17 (b) be placed for adoption;
18 (c) be placed with a legal guardian;
19 or
20 (d) be placed with a fit and willing
21 relative;

22 (F) if the child is 14 years of age or older,
23 whether services that are needed to assist the child in
24 transitioning from substitute care to independent living are
25 available in the child's community;

26 (G) whether the child is receiving appropriate
27 medical care and has been provided the opportunity, in a

developmentally appropriate manner, to express the child's opinion on any medical care provided;

(H) for a child receiving psychotropic medication, whether the child:

(i) has been provided appropriate nonpharmacological interventions, therapies, or strategies to meet the child's needs; or

(ii) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days;

(I) whether an education decision-maker for the child has been identified, the child's education needs and goals have been identified and addressed, and there are major changes in the child's school performance or there have been serious disciplinary events;

(J) for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, whether to order the department to provide services to a parent for not more than six months after the date of the permanency hearing if:

(i) the child has not been placed with a relative or other individual, including a foster parent, who is seeking permanent managing conservatorship of the child; and

(ii) the court determines that further efforts at reunification with a parent are:

(a) in the best interest of the child;

and

(b) likely to result in the child's safe return to the child's parent; and

(K) whether the department has identified a family or other caring adult who has made a permanent commitment to the child; and

(4) if the child is 16 years of age or older, determine whether the department has provided the child with the following:

(A) the child's birth certificate;

(B) a social security card or a replacement social security card;

(C) a driver's license or personal identification certificate under Chapter 521, Transportation Code;

(D) the information contained in the child's health passport, including the child's immunization records, as required under Section 266.006;

(E) proof of enrollment of the child in Medicaid, if appropriate; and

(F) written information advising the child of postsecondary education benefits and opportunities available to the child, including the tuition exemption for former foster children under Section 54.366, Education Code.

(b) At each permanency hearing after the court renders a final order, the court:

(1) for a child who is not represented by an attorney ad litem shall:

(A) determine whether the child requires representation by an attorney ad litem under Section 107.016; and

1 (B) if the court declines to appoint an attorney
2 ad litem for the child, state the reason for declining to appoint an
3 attorney ad litem; and

4 (2) for a child who is represented by an attorney ad
5 litem:

6 (A) shall consider the need for continued
7 appointment of the attorney ad litem for the child; and

8 (B) may discharge the attorney ad litem appointed
9 for the child if the court finds that:

10 (i) the child is eligible for adoption and
11 living in the home identified in the permanency plan as the child's
12 permanent home;

13 (ii) the child's attorney ad litem or
14 guardian ad litem does not object to the child's permanency plan;
15 and

16 (iii) the child has resided in the home
17 described by Subparagraph (i) for at least three months.

18 SECTION 32. Section 264.018, Family Code, is amended by
19 amending Subsection (f) and adding Subsections (f-1), (f-2), and
20 (f-3) to read as follows:

21 (f) Except as provided by Subsection (f-1) or (f-2), as [As]
22 soon as possible but not later than the 10th day after the date the
23 department becomes aware of a significant event affecting a child
24 in the conservatorship of the department, the department shall
25 provide notice of the significant event to:

26 (1) the child's parent;

27 (2) an attorney ad litem appointed for the child under

1 Chapter 107;

2 (3) a guardian ad litem appointed for the child under
3 Chapter 107;

4 (4) a volunteer advocate appointed for the child under
5 Chapter 107;

6 (5) the licensed administrator of the child-placing
7 agency responsible for placing the child or the licensed
8 administrator's designee;

9 (6) a foster parent, prospective adoptive parent,
10 relative of the child providing care to the child, or director of
11 the group home or general residential operation where the child is
12 residing; and

13 (7) any other person determined by a court to have an
14 interest in the child's welfare.

15 (f-1) As soon as possible after the department becomes aware
16 of a change in placement of a child in the conservatorship of the
17 department, the department shall give notice of the placement
18 change to the managed care organization that contracts with the
19 commission to provide health care services to the child under the
20 STAR Health program. The managed care organization, in
21 coordination with the department, shall give notice of the
22 placement change to the primary care physician listed in the
23 child's health passport.

24 (f-2) As soon as possible but not later than the fifth day
25 after the date a child-placing agency notifies the department of
26 the agency's intent to change the placement of a child in the
27 conservatorship of the department, the department shall give notice

of the impending placement change and the reason given for the placement change to:

(1) the child's parent;

(2) an attorney ad litem appointed for the child under Chapter 107;

(3) a guardian ad litem appointed for the child under Chapter 107;

(4) a volunteer advocate appointed for the child under Chapter 107;

(5) a foster parent, prospective adoptive parent, relative of the child providing care to the child, or director of the group home or general residential operation where the child is residing; and

(6) any other person determined by a court to have an interest in the child's welfare.

(f-3) As soon as possible but not later than the fifth day after the date a foster parent requests the removal of a child in the conservatorship of the department from the foster home, the department shall give notice of the impending placement change to:

(1) the child's parent;

(2) an attorney ad litem appointed for the child under Chapter 107;

(3) a guardian ad litem appointed for the child under Chapter 107;

(4) a volunteer advocate appointed for the child under Chapter 107;

(5) the licensed administrator of the child-placing

1 agency responsible for placing the child or the licensed
2 administrator's designee; and

3 (6) any other person determined by a court to have an
4 interest in the child's welfare.

5 SECTION 33. Section 264.121, Family Code, is amended by
6 adding Subsections (a-3), (a-4), and (a-5) to read as follows:

7 (a-3) The department shall conduct an independent living
8 skills assessment for all youth in the department's permanent
9 managing conservatorship who are 16 years of age or older. The
10 department may conduct a skills assessment for all youth in the
11 department's permanent managing conservatorship who are at least 14
12 years of age and older based on funding, prioritizing youth who have
13 the greatest needs. The department shall annually update the
14 assessment for each youth in the department's conservatorship to
15 determine the independent living skills the youth learned during
16 the preceding year to ensure the department's obligation to prepare
17 the youth for independent living has been met.

18 (a-4) The annual update of the independent living skills
19 assessment required under Subsection (a-3) must be conducted
20 through the child's plan of service in coordination with the child,
21 the caseworker, the Preparation for Adult Living Program staff, and
22 the child's caregiver.

23 (a-5) The department, in coordination with stakeholders,
24 shall develop a plan to standardize the curriculum for the
25 Preparation for Adult Living Program that ensures youth 14 years of
26 age or older enrolled in the program receive relevant and
27 age-appropriate information and training. The department shall

report the plan to the legislature not later than December 1, 2018.

This subsection expires September 1, 2019.

SECTION 34. The heading to Chapter 266, Family Code, is amended to read as follows:

CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR CHILDREN IN
CONSERVATORSHIP OF DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

~~[FOSTER CARE]~~

SECTION 35. Chapter 266, Family Code, is amended by adding Section 266.005 to read as follows:

Sec. 266.005. CONSULTATION FOR HEALTH CARE. (a) A court may not render an order requiring or prohibiting specific health care services, procedures, or treatments, including mental health care services, procedures, or treatments, for a child in the conservatorship of the department, unless a health care professional, acting within the scope of the health care professional's practice as prescribed by state law, has been consulted as to the proposed care. If the court finds that a health care professional has been consulted and the court declines to follow the recommendation of the health care professional, the court shall make findings in the record supporting the court's order.

(b) Subsection (a) does not apply if the court:

(1) finds there is an immediate need for medical or behavioral intervention and there is not time consistent with the circumstances and the child's health, safety, or well-being to consult with a health care professional; or

(2) directs a child to receive an examination or

1 assessment by an appropriate health care professional.

2 (c) If a court renders an order under circumstances
3 described by Subsection (b)(1), the court shall order consultation
4 with an appropriate health care professional as soon as
5 practicable.

6 (d) Evidence of a health care professional's recommendation
7 for proposed care under Subsection (a) is not inadmissible on the
8 grounds that it is hearsay evidence or that it is not authenticated
9 if the judge considers the evidence to be otherwise reliable.

10 SECTION 36. Chapter 122, Government Code, is amended by
11 adding Sections 122.005 and 122.006 to read as follows:

12 Sec. 122.005. FAMILY DRUG COURT STUDY. (a) Not later than
13 September 1, 2018, the commissioners court of each county that has
14 not established a family drug court program shall, subject to the
15 availability of funds, study the effect the creation of a family
16 drug court would have in the county. The sheriff and, as
17 applicable, the county attorney, district attorney, or criminal
18 district attorney shall assist in conducting the study. The study
19 must analyze the effectiveness of:

20 (1) creating a court that specializes in cases in
21 which a parent or person standing in parental relation suffers from
22 drug addiction; and

23 (2) case management used by a family drug court
24 program, including the involvement of Department of Family and
25 Protective Services caseworkers, court-appointed case managers,
26 and court-appointed special advocates, to rehabilitate a parent or
27 person standing in parental relation who has had a child removed

1 from the parent's or person's care by the department or who is under
2 investigation to determine if a child should be removed from the
3 care of the parent or person standing in parental relation by the
4 department.

5 (b) Each commissioners court in a county conducting the
6 study required by Subsection (a) shall request assistance from:

7 (1) judges located in the county;

8 (2) child protective services caseworkers and
9 supervisors;

10 (3) attorneys ad litem;

11 (4) guardians ad litem;

12 (5) drug treatment providers;

13 (6) family and child therapists;

14 (7) peer recovery coach providers;

15 (8) domestic violence victim advocates;

16 (9) housing partners;

17 (10) drug coordinators;

18 (11) drug court services managers; and

19 (12) drug court case managers.

20 (c) This section expires January 1, 2019.

21 Sec. 122.006. GRANT FUNDING FOR FAMILY DRUG COURTS. (a)
22 The family drug court fund is a dedicated account in the general
23 revenue fund in the state treasury.

24 (b) The family drug court fund consists of:

25 (1) appropriations of money to the fund by the
26 legislature; and

27 (2) gifts, grants, including grants from the federal

1 government, and other donations received for the fund.

2 (c) The Health and Human Services Commission shall
3 administer the family drug court fund. Money in the account may be
4 used only to pay counties to establish and administer a family drug
5 court. To receive money from the family drug court fund a county
6 must submit the study conducted under Section 122.005 on the effect
7 of the creation of a family drug court in the county and a detailed
8 proposal of the establishment of the court.

9 (d) Grants will only be made when funds are available.

10 SECTION 37. Subchapter A, Chapter 533, Government Code, is
11 amended by adding Section 533.0056 to read as follows:

12 Sec. 533.0056. STAR HEALTH PROGRAM: NOTIFICATION OF
13 PLACEMENT CHANGE. A contract between a managed care organization
14 and the commission for the organization to provide health care
15 services to recipients under the STAR Health program must require
16 the organization to ensure continuity of care for a child whose
17 placement has changed by:

18 (1) notifying each specialist treating the child of
19 the placement change; and

20 (2) coordinating the transition of care from the
21 child's previous treating primary care physician and treating
22 specialists to the child's new treating primary care physician and
23 treating specialists, if any.

24 SECTION 38. Section 572.001, Health and Safety Code, is
25 amended by amending Subsection (c) and adding Subsections (c-2),
26 (c-3), and (c-4) to read as follows:

27 (c) A person or agency appointed as the guardian or a

1 managing conservator of a person younger than 18 years of age and
2 acting as an employee or agent of the state or a political
3 subdivision of the state may request admission of the person
4 younger than 18 years of age to an inpatient mental health facility
5 ~~[only with the person's consent. If the person does not consent,~~
6 ~~the person may be admitted for inpatient services]~~ only as provided
7 by Subsection (c-2) or pursuant to an application for court-ordered
8 mental health services or emergency detention or an order for
9 protective custody.

10 (c-2) The Department of Family and Protective Services may
11 request the admission to an inpatient mental health facility of a
12 minor in the managing conservatorship of that department only if a
13 physician states the physician's opinion, and the detailed reasons
14 for that opinion, that the minor is a person:

15 (1) with mental illness or who demonstrates symptoms
16 of a serious emotional disorder; and

17 (2) who presents a risk of serious harm to self if not
18 immediately restrained or hospitalized.

19 (c-3) The admission to an inpatient mental health facility
20 under Subsection (c-2) of a minor in the managing conservatorship
21 of the Department of Family and Protective Services is a
22 significant event for purposes of Section 264.018, Family Code, and
23 the Department of Family and Protective Services shall provide
24 notice of the significant event:

25 (1) in accordance with that section to all parties
26 entitled to notice under that section; and

27 (2) to the court with continuing jurisdiction before

1 the expiration of three business days after the minor's admission.

2 (c-4) The Department of Family and Protective Services
3 periodically shall review the need for continued inpatient
4 treatment of a minor admitted to an inpatient mental health
5 facility under Subsection (c-2). If following the review that
6 department determines there is no longer a need for continued
7 inpatient treatment, that department shall notify the facility
8 administrator designated to detain the minor that the minor may no
9 longer be detained unless an application for court-ordered mental
10 health services is filed.

11 SECTION 39. Subchapter C, Chapter 42, Human Resources Code,
12 is amended by adding Section 42.066 to read as follows:

13 Sec. 42.066. REQUIRED SUBMISSION OF INFORMATION REQUESTED
14 BY COURT. A general residential operation that provides mental
15 health treatment or services to a child in the managing
16 conservatorship of the department shall timely submit to the court
17 in a suit affecting the parent-child relationship under Subtitle E,
18 Title 5, Family Code, all information requested by that court.

19 SECTION 40. The heading to Section 25.07, Penal Code, is
20 amended to read as follows:

21 Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS
22 OF BOND IN A FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT, SEXUAL ASSAULT
23 OR ABUSE, STALKING, OR TRAFFICKING CASE.

24 SECTION 41. Section 25.07(a), Penal Code, is amended to
25 read as follows:

26 (a) A person commits an offense if, in violation of a
27 condition of bond set in a family violence, sexual assault or abuse,

1 stalking, or trafficking case and related to the safety of a victim
2 or the safety of the community, an order issued under Chapter 7A,
3 Code of Criminal Procedure, an order issued under Article 17.292,
4 Code of Criminal Procedure, an order issued under Section 6.504,
5 Family Code, Chapter 83, Family Code, if the temporary ex parte
6 order has been served on the person, ~~[or]~~ Chapter 85, Family Code,
7 or Subchapter F, Chapter 261, Family Code, or an order issued by
8 another jurisdiction as provided by Chapter 88, Family Code, the
9 person knowingly or intentionally:

10 (1) commits family violence or an act in furtherance
11 of an offense under Section 20A.02, 22.011, 22.021, or 42.072;

12 (2) communicates:

13 (A) directly with a protected individual or a
14 member of the family or household in a threatening or harassing
15 manner;

16 (B) a threat through any person to a protected
17 individual or a member of the family or household; or

18 (C) in any manner with the protected individual
19 or a member of the family or household except through the person's
20 attorney or a person appointed by the court, if the violation is of
21 an order described by this subsection and the order prohibits any
22 communication with a protected individual or a member of the family
23 or household;

24 (3) goes to or near any of the following places as
25 specifically described in the order or condition of bond:

26 (A) the residence or place of employment or
27 business of a protected individual or a member of the family or

1 household; or

2 (B) any child care facility, residence, or school
3 where a child protected by the order or condition of bond normally
4 resides or attends;

5 (4) possesses a firearm;

6 (5) harms, threatens, or interferes with the care,
7 custody, or control of a pet, companion animal, or assistance
8 animal that is possessed by a person protected by the order or
9 condition of bond; or

10 (6) removes, attempts to remove, or otherwise tampers
11 with the normal functioning of a global positioning monitoring
12 system.

13 SECTION 42. The heading to Section 25.072, Penal Code, is
14 amended to read as follows:

15 Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR
16 CONDITIONS OF BOND IN FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT,
17 SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING CASE.

18 SECTION 43. (a) In this section:

19 (1) "Attorney ad litem" has the meaning assigned by
20 Section 107.001, Family Code.

21 (2) "Commission" means the Permanent Judicial
22 Commission for Children, Youth and Families established by the
23 supreme court.

24 (b) The commission shall study the appointment and use of
25 attorneys ad litem in cases involving the Department of Family and
26 Protective Services. The commission shall:

27 (1) examine:

1 (A) the method for appointing attorneys ad litem;

2 (B) the oversight and accountability measures
3 used across the state to monitor attorneys ad litem;

4 (C) the methods by which qualifications for
5 appointment as an attorney ad litem and training requirements for
6 an attorney ad litem are established and enforced;

7 (D) the timing of and duration of appointments;

8 (E) the rate of compensation for appointments and
9 the method for establishing compensation rates across the state;

10 (F) the quality of representation and methods for
11 assessing performance of attorneys ad litem;

12 (G) the pretrial and posttrial client
13 satisfaction with representation by attorneys ad litem
14 representing parents and attorneys ad litem representing children;

15 (H) organizational studies and national
16 standards related to the workload of attorneys ad litem;

17 (I) the best practices for attorneys ad litem;
18 and

19 (J) the estimated and average costs associated
20 with legal representation by an attorney ad litem per child
21 compared with the costs associated with foster care per child;

22 (2) conduct a survey of attorneys ad litem about the
23 attorney's training, including:

24 (A) the attorney's legal education;

25 (B) whether the attorney is certified as a
26 specialist by the Texas Board of Legal Specialization in any area of
27 law; and

1 (C) the professional standards followed by the
2 attorney;

3 (3) perform a statistical analysis of the data and
4 information collected under Subdivisions (1) and (2) of this
5 subsection; and

6 (4) develop policy recommendations for improving the
7 attorney ad litem appointment process.

8 (c) The commission shall prepare a report based on the
9 findings of the study conducted under this section and shall submit
10 the report to each member of the legislature not later than
11 September 1, 2018.

12 SECTION 44. (a) The changes in law made by this Act apply
13 only to a service plan filed for a full adversary hearing held under
14 Section 262.201, Family Code, or a status hearing held under
15 Chapter 263, Family Code, on or after January 1, 2018. A hearing
16 held before that date is governed by the law in effect immediately
17 before the effective date of this Act, and that law is continued in
18 effect for that purpose.

19 (b) The changes made by this Act to Section 263.401, Family
20 Code, apply only to a suit affecting the parent-child relationship
21 pending in a trial court on the effective date of this Act or filed
22 on or after the effective date of this Act. A suit affecting the
23 parent-child relationship in which a final order is rendered before
24 the effective date of this Act is governed by the law in effect on
25 the date the order was rendered, and the former law is continued in
26 effect for that purpose.

27 (c) Except as otherwise provided by this section, the

1 changes in law made by this Act apply only to a suit affecting the
2 parent-child relationship filed on or after the effective date of
3 this Act. A suit affecting the parent-child relationship filed
4 before the effective date of this Act is subject to the law in
5 effect at the time the suit was filed, and the former law is
6 continued in effect for that purpose.

7 (d) Except as otherwise provided by this section, the
8 changes in law made by this Act apply only to a contract for the
9 provision of health care services under the STAR Health program
10 between the Health and Human Services Commission and a managed care
11 organization under Chapter 533, Government Code, that is entered
12 into or renewed on or after the effective date of this Act.

13 (e) If before implementing Section 533.0056, Government
14 Code, as added by this Act, the Health and Human Services Commission
15 determines that a waiver or authorization from a federal agency is
16 necessary for implementation of that provision, the health and
17 human services agency affected by the provision shall request the
18 waiver or authorization and may delay implementing that provision
19 until the waiver or authorization is granted.

20 SECTION 45. The changes in law made by this Act apply to a
21 suit affecting the parent-child relationship filed before, on, or
22 after the effective date of this Act.

23 SECTION 46. The Health and Human Services Commission shall
24 adopt rules establishing the criteria for awarding a grant to
25 counties to establish a family drug court under Section 122.006,
26 Government Code, as added by this Act, not later than January 1,
27 2018.

H.B. No. 7

1 SECTION 47. To the extent of any conflict, this Act prevails
2 over another Act of the 85th Legislature, Regular Session, 2017,
3 relating to nonsubstantive additions to and corrections in enacted
4 codes.

5 SECTION 48. This Act takes effect September 1, 2017.

ADOPTED

MAY 24 2017

Leroy Spaw
Secretary of the Senate

By: Wu

H.B. No. 7

Substitute the following for .B. No. :

By: [Signature]

C.S.H.B. No. 7

A BILL TO BE ENTITLED

AN ACT

relating to child protective services suits, motions, and services
by the Department of Family and Protective Services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 58.0052, Family Code, is amended by
adding Subsection (b-1) to read as follows:

(b-1) In addition to the information provided under
Subsection (b), the Department of Family and Protective Services
and the Texas Juvenile Justice Department shall coordinate and
develop protocols for sharing with each other, on request, any
other information relating to a multi-system youth necessary to:

(1) identify and coordinate the provision of services
to the youth and prevent duplication of services;

(2) enhance rehabilitation of the youth; and

(3) improve and maintain community safety.

SECTION 2. Section 105.002, Family Code, is amended by
adding Subsection (d) to read as follows:

(d) The Department of Family and Protective Services in
collaboration with interested parties, including the Permanent
Judicial Commission for Children, Youth and Families, shall review
the form of jury submissions in this state and make recommendations
to the legislature not later than December 31, 2017, regarding
whether broad-form or specific jury questions should be required in
suits affecting the parent-child relationship filed by the

1 department. This subsection expires September 1, 2019.

2 SECTION 3. Sections 107.002(b) and (c), Family Code, are
3 amended to read as follows:

4 (b) A guardian ad litem appointed for the child under this
5 chapter shall:

6 (1) within a reasonable time after the appointment,
7 interview:

8 (A) the child in a developmentally appropriate
9 manner, if the child is four years of age or older;

10 (B) each person who has significant knowledge of
11 the child's history and condition, including educators, child
12 welfare service providers, and any foster parent of the child; and

13 (C) the parties to the suit;

14 (2) seek to elicit in a developmentally appropriate
15 manner the child's expressed objectives;

16 (3) consider the child's expressed objectives without
17 being bound by those objectives;

18 (4) encourage settlement and the use of alternative
19 forms of dispute resolution; and

20 (5) perform any specific task directed by the court.

21 (c) A guardian ad litem appointed for the child under this
22 chapter is entitled to:

23 (1) receive a copy of each pleading or other paper
24 filed with the court in the case in which the guardian ad litem is
25 appointed;

26 (2) receive notice of each hearing in the case;

27 (3) participate in case staffings by the Department of

1 Family and Protective Services concerning the child;

2 (4) attend all legal proceedings in the case but may
3 not call or question a witness or otherwise provide legal services
4 unless the guardian ad litem is a licensed attorney who has been
5 appointed in the dual role;

6 (5) review and sign, or decline to sign, an agreed
7 order affecting the child; ~~and~~

8 (6) explain the basis for the guardian ad litem's
9 opposition to the agreed order if the guardian ad litem does not
10 agree to the terms of a proposed order;

11 (7) have access to the child in the child's placement;

12 (8) be consulted and provide comments on decisions
13 regarding placement, including kinship, foster care, and adoptive
14 placements;

15 (9) evaluate whether the child welfare services
16 providers are protecting the child's best interests regarding
17 appropriate care, treatment, services, and all other foster
18 children's rights listed in Section 263.008;

19 (10) receive notification regarding and an invitation
20 to attend meetings related to the child's service plan and a copy of
21 the plan; and

22 (11) attend court-ordered mediation regarding the
23 child's case.

24 SECTION 4. Section 107.016, Family Code, is amended to read
25 as follows:

26 Sec. 107.016. CONTINUED REPRESENTATION; DURATION OF
27 APPOINTMENT. In a suit filed by a governmental entity in which

1 termination of the parent-child relationship or appointment of the
2 entity as conservator of the child is requested:

3 (1) an order appointing the Department of Family and
4 Protective Services as the child's managing conservator may provide
5 for the continuation of the appointment of the guardian ad litem [~~or~~
6 ~~attorney ad litem~~] for the child for any period during the time the
7 child remains in the conservatorship of the department, as set by
8 the court; ~~and~~

9 (2) an order appointing the Department of Family and
10 Protective Services as the child's managing conservator may provide
11 for the continuation of the appointment of the attorney ad litem for
12 the child as long as the child remains in the conservatorship of the
13 department; and

14 (3) an attorney appointed under this subchapter to
15 serve as an attorney ad litem for a parent or an alleged father
16 continues to serve in that capacity until the earliest of:

17 (A) the date the suit affecting the parent-child
18 relationship is dismissed;

19 (B) the date all appeals in relation to any final
20 order terminating parental rights are exhausted or waived; or

21 (C) the date the attorney is relieved of the
22 attorney's duties or replaced by another attorney after a finding
23 of good cause is rendered by the court on the record.

24 SECTION 5. Section 155.201, Family Code, is amended by
25 adding Subsection (d) to read as follows:

26 (d) On receiving notice that a court exercising
27 jurisdiction under Chapter 262 has ordered the transfer of a suit

1 under Section 262.203(a)(2), the court of continuing, exclusive
2 jurisdiction shall, pursuant to the requirements of Section
3 155.204(i), transfer the proceedings to the court in which the suit
4 under Chapter 262 is pending within the time required by Section
5 155.207(a).

6 SECTION 6. Section 155.204(i), Family Code, is amended to
7 read as follows:

8 (i) If a transfer order has been signed by a court
9 exercising jurisdiction under Chapter 262, the Department of Family
10 and Protective Services shall ~~[a party may]~~ file the transfer order
11 with the clerk of the court of continuing, exclusive jurisdiction.
12 On receipt and without a hearing or further order from the court of
13 continuing, exclusive jurisdiction, the clerk of the court of
14 continuing, exclusive jurisdiction shall transfer the files as
15 provided by this subchapter within the time required by Section
16 155.207(a).

17 SECTION 7. Section 161.001, Family Code, is amended by
18 adding Subsections (c), (d), and (e) to read as follows:

19 (c) A court may not make a finding under Subsection (b) and
20 order termination of the parent-child relationship based on
21 evidence that the parent:

22 (1) homeschooled the child;
23 (2) is economically disadvantaged;
24 (3) has been charged with a nonviolent misdemeanor
25 offense other than:

26 (A) an offense under Title 5, Penal Code;
27 (B) an offense under Title 6, Penal Code; or

1 (C) an offense that involves family violence, as
2 defined by Section 71.004 of this code;

3 (4) provided or administered low-THC cannabis to a
4 child for whom the low-THC cannabis was prescribed under Chapter
5 169, Occupations Code; or

6 (5) declined immunization for the child for reasons of
7 conscience, including a religious belief.

8 (d) A court may not order termination under Subsection
9 (b)(1)(O) based on the failure by the parent to comply with a
10 specific provision of a court order if a parent proves by a
11 preponderance of evidence that:

12 (1) the parent was unable to comply with specific
13 provisions of the court order; and

14 (2) the parent made a good faith effort to comply with
15 the order and the failure to comply with the order is not
16 attributable to any fault of the parent.

17 (e) This section does not prohibit the Department of Family
18 and Protective Services from offering evidence described by
19 Subsection (c) as part of an action to terminate the parent-child
20 relationship under this subchapter.

21 SECTION 8. Section 161.206, Family Code, is amended by
22 adding Subsection (a-1) to read as follows:

23 (a-1) In a suit filed by the Department of Family and
24 Protective Services seeking termination of the parent-child
25 relationship for more than one parent of the child, the court may
26 order termination of the parent-child relationship for one of the
27 parents only if the court finds by clear and convincing evidence

grounds for the termination of the parent-child relationship for that parent.

SECTION 9. Chapter 261, Family Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT

Sec. 261.501. FILING APPLICATION FOR PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT. The department may file an application for a protective order for a child's protection under this subchapter on the department's own initiative or jointly with a parent, relative, or caregiver of the child who requests the filing of the application if the department:

(1) has temporary managing conservatorship of the child;

(2) determines that:

(A) the child:

(i) is a victim of abuse or neglect; or

(ii) has a history of being abused or neglected; and

(B) there is a threat of:

(i) immediate or continued abuse or neglect to the child;

(ii) someone illegally taking the child from the home in which the child is placed;

(iii) behavior that poses a threat to the caregiver with whom the child is placed; or

(iv) someone committing an act of violence against the child or the child's caregiver; and

1 (3) is not otherwise authorized to apply for a
2 protective order for the child's protection under Chapter 82.

3 Sec. 261.502. CERTIFICATION OF FINDINGS. (a) In making the
4 application under this subchapter, the department must certify
5 that:

6 (1) the department has diligently searched for and:

7 (A) was unable to locate the child's parent,
8 legal guardian, or custodian, other than the respondent to the
9 application; or

10 (B) located and provided notice of the proposed
11 application to the child's parent, legal guardian, or custodian,
12 other than the respondent to the application; and

13 (2) if applicable, the relative or caregiver who is
14 jointly filing the petition, or with whom the child would reside
15 following an entry of the protective order, has not abused or
16 neglected the child and does not have a history of abuse or neglect.

17 (b) An application for a temporary ex parte order under
18 Section 261.503 may be filed without making the findings required
19 by Subsection (a) if the department certifies that the department
20 believes there is an immediate danger of abuse or neglect to the
21 child.

22 Sec. 261.503. TEMPORARY EX PARTE ORDER. If the court finds
23 from the information contained in an application for a protective
24 order that there is an immediate danger of abuse or neglect to the
25 child, the court, without further notice to the respondent and
26 without a hearing, may enter a temporary ex parte order for the
27 protection of the child.

1 Sec. 261.504. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE
2 ORDER. (a) At the close of a hearing on an application for a
3 protective order under this subchapter, the court shall find
4 whether there are reasonable grounds to believe that:

5 (1) the child:

6 (A) is a victim of abuse or neglect; or

7 (B) has a history of being abused or neglected;

8 and

9 (2) there is a threat of:

10 (A) immediate or continued abuse or neglect to
11 the child;

12 (B) someone illegally taking the child from the
13 home in which the child is placed;

14 (C) behavior that poses a threat to the caregiver
15 with whom the child is placed; or

16 (D) someone committing an act of violence against
17 the child or the child's caregiver.

18 (b) If the court makes an affirmative finding under
19 Subsection (a), the court shall issue a protective order that
20 includes a statement of that finding.

21 Sec. 261.505. APPLICATION OF OTHER LAW. To the extent
22 applicable, except as otherwise provided by this subchapter, Title
23 4 applies to a protective order issued under this subchapter.

24 SECTION 10. Subchapter A, Chapter 262, Family Code, is
25 amended by adding Section 262.0022 to read as follows:

26 Sec. 262.0022. REVIEW OF PLACEMENT; FINDINGS. At each
27 hearing under this chapter, the court shall review the placement of

each child in the temporary or permanent managing conservatorship of the Department of Family and Protective Services who is not placed with a relative caregiver or designated caregiver as defined by Section 264.751. The court shall include in its findings a statement on whether the department has the option of placing the child with a relative or other designated caregiver.

SECTION 11. Subchapter A, Chapter 262, Family Code, is amended by adding Sections 262.013 and 262.014 to read as follows:

Sec. 262.013. VOLUNTARY TEMPORARY MANAGING CONSERVATORSHIP. In a suit affecting the parent-child relationship filed by the Department of Family and Protective Services, the existence of a parent's voluntary agreement to temporarily place the parent's child in the managing conservatorship of the department is not an admission by the parent that the parent engaged in conduct that endangered the child.

Sec. 262.014. DISCLOSURE OF CERTAIN EVIDENCE. On the request of the attorney for a parent who is a party in a suit affecting the parent-child relationship filed under this chapter, or the attorney ad litem for the parent's child, the Department of Family and Protective Services shall, before the full adversary hearing, provide:

(1) the name of any person, excluding a department employee, whom the department will call as a witness to any of the allegations contained in the petition filed by the department;

(2) a copy of any offense report relating to the allegations contained in the petition filed by the department that will be used in court to refresh a witness's memory; and

1 (3) a copy of any photograph, video, or recording that
2 will be presented as evidence.

3 SECTION 12. Section 262.113, Family Code, is amended to
4 read as follows:

5 Sec. 262.113. FILING SUIT WITHOUT TAKING POSSESSION OF
6 CHILD. An original suit filed by a governmental entity that
7 requests to take possession of a child after notice and a hearing
8 must be supported by an affidavit sworn to by a person with personal
9 knowledge and stating facts sufficient to satisfy a person of
10 ordinary prudence and caution that:

11 (1) there is a continuing danger to the physical
12 health or safety of the child caused by an act or failure to act of
13 the person entitled to possession of the child and that allowing the
14 child to remain in the home would be contrary to the child's
15 welfare; and

16 (2) reasonable efforts, consistent with the
17 circumstances and providing for the safety of the child, have been
18 made to prevent or eliminate the need to remove the child from the
19 child's home[~~and~~

20 ~~[(2) allowing the child to remain in the home would be~~
21 ~~contrary to the child's welfare].~~

22 SECTION 13. Subchapter B, Chapter 262, Family Code, is
23 amended by adding Section 262.116 to read as follows:

24 Sec. 262.116. LIMITS ON REMOVAL. (a) The Department of
25 Family and Protective Services may not take possession of a child
26 under this subchapter based on evidence that the parent:

27 (1) homeschooled the child;

1 (2) is economically disadvantaged;
2 (3) has been charged with a nonviolent misdemeanor
3 offense other than:
4 (A) an offense under Title 5, Penal Code;
5 (B) an offense under Title 6, Penal Code; or
6 (C) an offense that involves family violence, as
7 defined by Section 71.004 of this code;
8 (4) provided or administered low-THC cannabis to a
9 child for whom the low-THC cannabis was prescribed under Chapter
10 169, Occupations Code; or
11 (5) declined immunization for the child for reasons of
12 conscience, including a religious belief.
13 (b) The department shall train child protective services
14 caseworkers regarding the prohibitions on removal provided under
15 Subsection (a).
16 (c) The executive commissioner of the Health and Human
17 Services Commission may adopt rules to implement this section.
18 (d) This section does not prohibit the department from
19 gathering or offering evidence described by Subsection (a) as part
20 of an action to take possession of a child under this subchapter.

21 SECTION 14. Section 262.201, Family Code, is amended by
22 amending Subsection (a) and adding Subsection (a-5) to read as
23 follows:

24 (a) Unless the child has already been returned to the
25 parent, managing conservator, possessory conservator, guardian,
26 caretaker, or custodian entitled to possession and the temporary
27 order, if any, has been dissolved, a full adversary hearing shall be

1 held not later than the 14th day after the date the child was taken
2 into possession by the governmental entity, unless the court grants
3 an extension under Subsection (a-3) or (a-5).

4 (a-5) If a parent who is not indigent appears in opposition
5 to the suit, the court may, for good cause shown, postpone the full
6 adversary hearing for not more than seven days from the date of the
7 parent's appearance to allow the parent to hire an attorney or to
8 provide the parent's attorney time to respond to the petition and
9 prepare for the hearing. A postponement under this subsection is
10 subject to the limits and requirements prescribed by Subsection
11 (a-3) and Section 155.207.

12 SECTION 15. Section 262.203(a), Family Code, is amended to
13 read as follows:

14 (a) On the motion of a party or the court's own motion, if
15 applicable, the court that rendered the temporary order shall in
16 accordance with procedures provided by Chapter 155:

17 (1) transfer the suit to the court of continuing,
18 exclusive jurisdiction, if any, within the time required by Section
19 155.207(a), if the court finds that the transfer is:

20 (A) necessary for the convenience of the parties;
21 and

22 (B) in the best interest of the child;

23 (2) ~~[if grounds exist for mandatory transfer from the~~
24 ~~court of continuing, exclusive jurisdiction under Section~~
25 ~~155.201,~~ order transfer of the suit from the ~~[that]~~ court of
26 continuing, exclusive jurisdiction; or

27 (3) if grounds exist for transfer based on improper

venue, order transfer of the suit to the court having venue of the suit under Chapter 103.

SECTION 16. Subchapter C, Chapter 262, Family Code, is amended by adding Section 262.206 to read as follows:

Sec. 262.206. EX PARTE HEARINGS PROHIBITED. Unless otherwise authorized by this chapter or other law, a hearing held by a court in a suit under this chapter may not be ex parte.

SECTION 17. Section 263.002, Family Code, is amended to read as follows:

Sec. 263.002. REVIEW OF PLACEMENTS BY COURT; FINDINGS. (a) In a suit affecting the parent-child relationship in which the department has been appointed by the court or designated in an affidavit of relinquishment of parental rights as the temporary or permanent managing conservator of a child, the court shall hold a hearing to review:

(1) the conservatorship appointment and substitute care; and

(2) for a child committed to the Texas Juvenile Justice Department, the child's commitment in the Texas Juvenile Justice Department or release under supervision by the Texas Juvenile Justice Department.

(b) At each hearing under this chapter, the court shall review the placement of each child in the temporary managing conservatorship of the department who is not placed with a relative caregiver or designated caregiver as defined by Section 264.751. The court shall include in its findings a statement whether the department placed the child with a relative or other designated

1 caregiver.

2 (c) At each permanency hearing under this chapter, the court
3 shall review the placement of each child in the temporary managing
4 conservatorship of the department who has not been returned to the
5 child's home. The court shall make a finding on whether returning
6 the child to the child's home is safe and appropriate, whether the
7 return is in the best interest of the child, and whether it is
8 contrary to the welfare of the child for the child to return home.

9 SECTION 18. Section 263.0021, Family Code, is amended by
10 adding Subsections (e) and (f) to read as follows:

11 (e) Notice of a hearing under this chapter provided to an
12 individual listed under Subsection (b)(2) must state that the
13 individual may, but is not required to, attend the hearing and may
14 request to be heard at the hearing.

15 (f) In a hearing under this chapter, the court shall
16 determine whether the child's caregiver is present at the hearing
17 and allow the caregiver to testify if the caregiver wishes to
18 provide information about the child.

19 SECTION 19. Section 263.401, Family Code, is amended to
20 read as follows:

21 Sec. 263.401. DISMISSAL AFTER ONE YEAR; NEW TRIALS;
22 EXTENSION. (a) Unless the court has commenced the trial on the
23 merits or granted an extension under Subsection (b) or (b-1), on the
24 first Monday after the first anniversary of the date the court
25 rendered a temporary order appointing the department as temporary
26 managing conservator, the court's jurisdiction over [~~court shall~~
27 ~~dismiss~~] the suit affecting the parent-child relationship filed by

1 the department that requests termination of the parent-child
2 relationship or requests that the department be named conservator
3 of the child is terminated and the suit is automatically dismissed
4 without a court order. Not later than the 60th day before the day
5 the suit is automatically dismissed, the court shall notify all
6 parties to the suit of the automatic dismissal date.

7 (b) Unless the court has commenced the trial on the merits,
8 the court may not retain the suit on the court's docket after the
9 time described by Subsection (a) unless the court finds that
10 extraordinary circumstances necessitate the child remaining in the
11 temporary managing conservatorship of the department and that
12 continuing the appointment of the department as temporary managing
13 conservator is in the best interest of the child. If the court
14 makes those findings, the court may retain the suit on the court's
15 docket for a period not to exceed 180 days after the time described
16 by Subsection (a). If the court retains the suit on the court's
17 docket, the court shall render an order in which the court:

18 (1) schedules the new date on which the suit will be
19 automatically dismissed if the trial on the merits has not
20 commenced, which date must be not later than the 180th day after the
21 time described by Subsection (a);

22 (2) makes further temporary orders for the safety and
23 welfare of the child as necessary to avoid further delay in
24 resolving the suit; and

25 (3) sets the trial on the merits on a date not later
26 than the date specified under Subdivision (1).

27 (b-1) If, after commencement of the initial trial on the

1 merits within the time required by Subsection (a) or (b), the court
2 grants a motion for a new trial or mistrial, or the case is remanded
3 to the court by an appellate court following an appeal of the
4 court's final order, the court shall retain the suit on the court's
5 docket and render an order in which the court:

6 (1) schedules a new date on which the suit will be
7 automatically dismissed if the new trial has not commenced, which
8 must be a date not later than the 180th day after the date on which:

9 (A) the motion for a new trial or mistrial is
10 granted; or

11 (B) the appellate court remanded the case;

12 (2) makes further temporary orders for the safety and
13 welfare of the child as necessary to avoid further delay in
14 resolving the suit; and

15 (3) sets the new trial on the merits for a date not
16 later than the date specified under Subdivision (1).

17 (c) If the court grants an extension under Subsection (b) or
18 (b-1) but does not commence the trial on the merits before the
19 dismissal date, the court's jurisdiction over ~~[court shall dismiss]~~
20 the suit is terminated and the suit is automatically dismissed
21 without a court order. The court may not grant an additional
22 extension that extends the suit beyond the required date for
23 dismissal under Subsection (b) or (b-1), as applicable.

24 SECTION 20. Section 263.402, Family Code, is amended to
25 read as follows:

26 Sec. 263.402. LIMIT ON EXTENSION~~[, WAIVER]~~. ~~[(a)]~~ The
27 parties to a suit under this chapter may not extend the deadlines

1 set by the court under this subchapter by agreement or otherwise.

2 ~~[(b) A party to a suit under this chapter who fails to make a~~
3 ~~timely motion to dismiss the suit under this subchapter waives the~~
4 ~~right to object to the court's failure to dismiss the suit. A~~
5 ~~motion to dismiss under this subsection is timely if the motion is~~
6 ~~made before the trial on the merits commences.]~~

7 SECTION 21. Section 263.403, Family Code, is amended by
8 amending Subsections (a) and (c) and adding Subsection (a-1) to
9 read as follows:

10 (a) Notwithstanding Section 263.401, the court may retain
11 jurisdiction and not dismiss the suit or render a final order as
12 required by that section if the court renders a temporary order
13 that:

14 (1) finds that retaining jurisdiction under this
15 section is in the best interest of the child;

16 (2) orders the department to:

17 (A) return the child to the child's parent; or

18 (B) transition the child, according to a schedule
19 determined by the department or court, from substitute care to the
20 parent while the parent completes the remaining requirements
21 imposed under a service plan and specified in the temporary order
22 that are necessary for the child's return;

23 (3) orders the department to continue to serve as
24 temporary managing conservator of the child; and

25 (4) orders the department to monitor the child's
26 placement to ensure that the child is in a safe environment.

27 (a-1) Unless the court has granted an extension under

1 Section 263.401(b), the department or the parent may request the
2 court to retain jurisdiction for an additional six months as
3 necessary for a parent to complete the remaining requirements in a
4 service plan and specified in the temporary order that are
5 mandatory for the child's return.

6 (c) If before the dismissal of the suit or the commencement
7 of the trial on the merits a child placed with a parent under this
8 section must be moved from that home by the department or the court
9 renders a temporary order terminating the transition order issued
10 under Subsection (a)(2)(B) [~~before the dismissal of the suit or the~~
11 ~~commencement of the trial on the merits]~~, the court shall, at the
12 time of the move or order, schedule a new date for dismissal of the
13 suit [~~unless a trial on the merits has commenced~~]. The new
14 dismissal date may not be later than the original dismissal date
15 established under Section 263.401 or the 180th day after the date
16 the child is moved or the order is rendered under this subsection,
17 whichever date is later.

18 SECTION 22. Subchapter E, Chapter 263, Family Code, is
19 amended by adding Section 263.4055 to read as follows:

20 Sec. 263.4055. SUPREME COURT RULES. The supreme court by
21 rule shall establish civil and appellate procedures to address:

22 (1) conflicts between the filing of a motion for new
23 trial and the filing of an appeal of a final order rendered under
24 this chapter; and

25 (2) the period, including an extension of at least 20
26 days, for a court reporter to submit the reporter's record of a
27 trial to an appellate court following a final order rendered under

1 this chapter.

2 SECTION 23. Section 263.5031, Family Code, is amended to
3 read as follows:

4 Sec. 263.5031. PERMANENCY HEARINGS FOLLOWING FINAL ORDER.

5 At each permanency hearing after the court renders a final order,
6 the court shall:

7 (1) identify all persons and parties present at the
8 hearing;

9 (2) review the efforts of the department or other
10 agency in notifying persons entitled to notice under Section
11 263.0021; and

12 (3) review the permanency progress report to
13 determine:

14 (A) the safety and well-being of the child and
15 whether the child's needs, including any medical or special needs,
16 are being adequately addressed;

17 (B) whether the department placed the child with
18 a relative or other designated caregiver and the continuing
19 necessity and appropriateness of the placement of the child,
20 including with respect to a child who has been placed outside of
21 this state, whether the placement continues to be in the best
22 interest of the child;

23 (C) if the child is placed in institutional care,
24 whether efforts have been made to ensure that the child is placed in
25 the least restrictive environment consistent with the child's best
26 interest and special needs;

27 (D) the appropriateness of the primary and

1 alternative permanency goals for the child, whether the department
2 has made reasonable efforts to finalize the permanency plan,
3 including the concurrent permanency goals, in effect for the child,
4 and whether: —

5 (i) the department has exercised due
6 diligence in attempting to place the child for adoption if parental
7 rights to the child have been terminated and the child is eligible
8 for adoption; or

9 (ii) another permanent placement,
10 including appointing a relative as permanent managing conservator
11 or returning the child to a parent, is appropriate for the child;

12 (E) for a child whose permanency goal is another
13 planned permanent living arrangement:

14 (i) the desired permanency outcome for the
15 child, by asking the child; and

16 (ii) whether, as of the date of the hearing,
17 another planned permanent living arrangement is the best permanency
18 plan for the child and, if so, provide compelling reasons why it
19 continues to not be in the best interest of the child to:

20 (a) return home;

21 (b) be placed for adoption;

22 (c) be placed with a legal guardian;

23 or

24 (d) be placed with a fit and willing
25 relative;

26 (F) if the child is 14 years of age or older,
27 whether services that are needed to assist the child in

1 transitioning from substitute care to independent living are
2 available in the child's community;

3 (G) whether the child is receiving appropriate
4 medical care and has been provided the opportunity, in a
5 developmentally appropriate manner, to express the child's opinion
6 on any medical care provided;

7 (H) for a child receiving psychotropic
8 medication, whether the child:

9 (i) has been provided appropriate
10 nonpharmacological interventions, therapies, or strategies to meet
11 the child's needs; or

12 (ii) has been seen by the prescribing
13 physician, physician assistant, or advanced practice nurse at least
14 once every 90 days;

15 (I) whether an education decision-maker for the
16 child has been identified, the child's education needs and goals
17 have been identified and addressed, and there are major changes in
18 the child's school performance or there have been serious
19 disciplinary events;

20 (J) for a child for whom the department has been
21 named managing conservator in a final order that does not include
22 termination of parental rights, whether to order the department to
23 provide services to a parent for not more than six months after the
24 date of the permanency hearing if:

25 (i) the child has not been placed with a
26 relative or other individual, including a foster parent, who is
27 seeking permanent managing conservatorship of the child; and

(ii) the court determines that further efforts at reunification with a parent are:

(a) in the best interest of the child; and

(b) likely to result in the child's safe return to the child's parent; and

(K) whether the department has identified a family or other caring adult who has made a permanent commitment to the child.

SECTION 24. Section 264.018, Family Code, is amended by adding Subsection (d-1) and amending Subsection (f) to read as follows:

(d-1) As soon as possible but not later than 24 hours after a change in placement of a child in the conservatorship of the department, the department shall give notice of the placement change to the managed care organization that contracts with the commission to provide health care services to the child under the STAR Health program. The managed care organization shall give notice of the placement change to the primary care physician listed in the child's health passport before the end of the second business day after the day the organization receives the notification from the department.

(f) Except as provided by Subsection (d-1), as ~~As~~ soon as possible but not later than the 10th day after the date the department becomes aware of a significant event affecting a child in the conservatorship of the department, the department shall provide notice of the significant event to:

- 1 (1) the child's parent;
- 2 (2) an attorney ad litem appointed for the child under
3 Chapter 107;
- 4 (3) a guardian ad litem appointed for the child under
5 Chapter 107;
- 6 (4) a volunteer advocate appointed for the child under
7 Chapter 107;
- 8 (5) the licensed administrator of the child-placing
9 agency responsible for placing the child or the licensed
10 administrator's designee;
- 11 (6) a foster parent, prospective adoptive parent,
12 relative of the child providing care to the child, or director of
13 the group home or general residential operation where the child is
14 residing; and
- 15 (7) any other person determined by a court to have an
16 interest in the child's welfare.

17 SECTION 25. The heading to Chapter 266, Family Code, is
18 amended to read as follows:

19 CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR CHILDREN IN
20 CONSERVATORSHIP OF DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

21 [FOSTER CARE]

22 SECTION 26. Chapter 266, Family Code, is amended by adding
23 Section 266.005 to read as follows:

24 Sec. 266.005. FINDING ON HEALTH CARE CONSULTATION. If a
25 court finds that a health care professional has been consulted
26 regarding a health care service, procedure, or treatment for a
27 child in the conservatorship of the department and the court

1 declines to follow the recommendation of the health care
2 professional, the court shall make findings in the record
3 supporting the court's order.

4 SECTION 27. (a) Subchapter A, Chapter 533, Government
5 Code, is amended by adding Section 533.0056 to read as follows:

6 Sec. 533.0056. STAR HEALTH PROGRAM: NOTIFICATION OF
7 PLACEMENT CHANGE. A contract between a managed care organization
8 and the commission for the organization to provide health care
9 services to recipients under the STAR Health program must require
10 the organization to ensure continuity of care for a child whose
11 placement has changed by:

12 (1) notifying each specialist treating the child of
13 the placement change; and

14 (2) coordinating the transition of care from the
15 child's previous treating primary care physician and treating
16 specialists to the child's new treating primary care physician and
17 treating specialists, if any.

18 (b) The changes in law made by this section apply only to a
19 contract for the provision of health care services under the STAR
20 Health program between the Health and Human Services Commission and
21 a managed care organization under Chapter 533, Government Code,
22 that is entered into, renewed, or extended on or after the effective
23 date of this section.

24 (c) If before implementing Section 533.0056, Government
25 Code, as added by this section, the Health and Human Services
26 Commission determines that a waiver or authorization from a federal
27 agency is necessary for implementation of that provision, the

1 health and human services agency affected by the provision shall
2 request the waiver or authorization and may delay implementing that
3 provision until the waiver or authorization is granted.

4 SECTION 28. Effective September 1, 2018, Section 572.001,
5 Health and Safety Code, is amended by amending Subsection (c) and
6 adding Subsections (c-2), (c-3), and (c-4) to read as follows:

7 (c) A person or agency appointed as the guardian or a
8 managing conservator of a person younger than 18 years of age and
9 acting as an employee or agent of the state or a political
10 subdivision of the state may request admission of the person
11 younger than 18 years of age to an inpatient mental health facility
12 ~~[only with the person's consent. If the person does not consent,~~
13 ~~the person may be admitted for inpatient services]~~ only as provided
14 by Subsection (c-2) or pursuant to an application for court-ordered
15 mental health services or emergency detention or an order for
16 protective custody.

17 (c-2) The Department of Family and Protective Services may
18 request the admission to an inpatient mental health facility of a
19 minor in the managing conservatorship of that department only if a
20 physician states the physician's opinion, and the detailed reasons
21 for that opinion, that the minor is a person:

22 (1) with mental illness or who demonstrates symptoms
23 of a serious emotional disorder; and

24 (2) who presents a risk of serious harm to self or
25 others if not immediately restrained or hospitalized.

26 (c-3) The admission to an inpatient mental health facility
27 under Subsection (c-2) of a minor in the managing conservatorship

1 of the Department of Family and Protective Services is a
2 significant event for purposes of Section 264.018, Family Code, and
3 the Department of Family and Protective Services shall provide
4 notice of the significant event:

5 (1) in accordance with that section to all parties
6 entitled to notice under that section; and

7 (2) to the court with continuing jurisdiction before
8 the expiration of three business days after the minor's admission.

9 (c-4) The Department of Family and Protective Services
10 periodically shall review the need for continued inpatient
11 treatment of a minor admitted to an inpatient mental health
12 facility under Subsection (c-2). If following the review that
13 department determines there is no longer a need for continued
14 inpatient treatment, that department shall notify the facility
15 administrator designated to detain the minor that the minor may no
16 longer be detained unless an application for court-ordered mental
17 health services is filed.

18 SECTION 29. Subchapter C, Chapter 42, Human Resources Code,
19 is amended by adding Section 42.066 to read as follows:

20 Sec. 42.066. REQUIRED SUBMISSION OF INFORMATION REQUESTED
21 BY COURT. A general residential operation that provides mental
22 health treatment or services to a child in the managing
23 conservatorship of the department shall timely submit to the court
24 in a suit affecting the parent-child relationship under Subtitle E,
25 Title 5, Family Code, all information requested by that court.

26 SECTION 30. The heading to Section 25.07, Penal Code, is
27 amended to read as follows:

1 Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS
2 OF BOND IN A FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT, SEXUAL ASSAULT
3 OR ABUSE, STALKING, OR TRAFFICKING CASE.

4 SECTION 31. Section 25.07(a), Penal Code, is amended to
5 read as follows:

6 (a) A person commits an offense if, in violation of a
7 condition of bond set in a family violence, sexual assault or abuse,
8 stalking, or trafficking case and related to the safety of a victim
9 or the safety of the community, an order issued under Chapter 7A,
10 Code of Criminal Procedure, an order issued under Article 17.292,
11 Code of Criminal Procedure, an order issued under Section 6.504,
12 Family Code, Chapter 83, Family Code, if the temporary ex parte
13 order has been served on the person, ~~or~~ Chapter 85, Family Code,
14 or Subchapter F, Chapter 261, Family Code, or an order issued by
15 another jurisdiction as provided by Chapter 88, Family Code, the
16 person knowingly or intentionally:

17 (1) commits family violence or an act in furtherance
18 of an offense under Section 20A.02, 22.011, 22.021, or 42.072;

19 (2) communicates:

20 (A) directly with a protected individual or a
21 member of the family or household in a threatening or harassing
22 manner;

23 (B) a threat through any person to a protected
24 individual or a member of the family or household; or

25 (C) in any manner with the protected individual
26 or a member of the family or household except through the person's
27 attorney or a person appointed by the court, if the violation is of

1 an order described by this subsection and the order prohibits any
2 communication with a protected individual or a member of the family
3 or household;

4 (3) goes to or near any of the following places as
5 specifically described in the order or condition of bond:

6 (A) the residence or place of employment or
7 business of a protected individual or a member of the family or
8 household; or

9 (B) any child care facility, residence, or school
10 where a child protected by the order or condition of bond normally
11 resides or attends;

12 (4) possesses a firearm;

13 (5) harms, threatens, or interferes with the care,
14 custody, or control of a pet, companion animal, or assistance
15 animal that is possessed by a person protected by the order or
16 condition of bond; or

17 (6) removes, attempts to remove, or otherwise tampers
18 with the normal functioning of a global positioning monitoring
19 system.

20 SECTION 32. The heading to Section 25.072, Penal Code, is
21 amended to read as follows:

22 Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR
23 CONDITIONS OF BOND IN FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT,
24 SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING CASE.

25 SECTION 33. (a) In this section:

26 (1) "Attorney ad litem" has the meaning assigned by
27 Section 107.001, Family Code.

1 (2) "Commission" means the Permanent Judicial
2 Commission for Children, Youth and Families established by the
3 supreme court.

4 (b) The commission shall study the appointment and use of
5 attorneys ad litem in cases involving the Department of Family and
6 Protective Services. The commission shall:

7 (1) examine:

8 (A) the method for appointing attorneys ad litem;

9 (B) the oversight and accountability measures
10 used across the state to monitor attorneys ad litem;

11 (C) the methods by which qualifications for
12 appointment as an attorney ad litem and training requirements for
13 an attorney ad litem are established and enforced;

14 (D) the timing of and duration of appointments;

15 (E) the rate of compensation for appointments and
16 the method for establishing compensation rates across the state;

17 (F) the quality of representation and methods for
18 assessing performance of attorneys ad litem;

19 (G) the pretrial and posttrial client
20 satisfaction with representation by attorneys ad litem
21 representing parents and attorneys ad litem representing children;

22 (H) organizational studies and national
23 standards related to the workload of attorneys ad litem;

24 (I) the best practices for attorneys ad litem;

25 and

26 (J) the estimated and average costs associated
27 with legal representation by an attorney ad litem per child

1 compared with the costs associated with foster care per child;

2 (2) conduct a survey of attorneys ad litem about the
3 attorney's training, including:

4 (A) the attorney's legal education;

5 (B) whether the attorney is certified as a
6 specialist by the Texas Board of Legal Specialization in any area of
7 law; and

8 (C) the professional standards followed by the
9 attorney;

10 (3) perform a statistical analysis of the data and
11 information collected under Subdivisions (1) and (2) of this
12 subsection; and

13 (4) develop policy recommendations for improving the
14 attorney ad litem appointment process.

15 (c) The commission shall prepare a report based on the
16 findings of the study conducted under this section and shall submit
17 the report to each member of the legislature not later than
18 September 1, 2018.

19 SECTION 34. (a) The changes in law made by this Act apply
20 only to a service plan filed for a full adversary hearing held under
21 Section 262.201, Family Code, or a status hearing held under
22 Chapter 263, Family Code, on or after January 1, 2018. A hearing
23 held before that date is governed by the law in effect immediately
24 before the effective date of this Act, and that law is continued in
25 effect for that purpose.

26 (b) The changes made by this Act to Section 263.401, Family
27 Code, apply only to a suit affecting the parent-child relationship

1 pending in a trial court on the effective date of this Act or filed
2 on or after the effective date of this Act. A suit affecting the
3 parent-child relationship in which a final order is rendered before
4 the effective date of this Act is governed by the law in effect on
5 the date the order was rendered, and the former law is continued in
6 effect for that purpose.

7 (c) Except as otherwise provided by this section, the
8 changes in law made by this Act apply only to a suit affecting the
9 parent-child relationship filed on or after the effective date of
10 this Act. A suit affecting the parent-child relationship filed
11 before the effective date of this Act is subject to the law in
12 effect at the time the suit was filed, and the former law is
13 continued in effect for that purpose.

14 SECTION 35. Subchapter F, Chapter 261, Family Code, as
15 added by this Act, Section 262.206, Family Code, as added by this
16 Act, Section 572.001, Health and Safety Code, as amended by this
17 Act, and Section 25.07(a), Penal Code, as amended by this Act, take
18 effect only if a specific appropriation for the implementation of
19 those sections is provided in a general appropriations act of the
20 85th Legislature.

21 SECTION 36. Except as otherwise provided by this Act, this
22 Act takes effect September 1, 2017.

ADOPTED

MAY 24 2017

Lotay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

P. Christ

1 Amend C.S.H.B. No. 7 (senate committee report) in SECTION 8
2 of the bill, in added Section 161.206(a-1), Family Code (page 3,
3 lines 48 and 49), by striking "one of the parents" and substituting
4 "the parent".

ADOPTED

MAY 24 2017

Henry S. Grew
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *C. Christy*

1 Amend C.S.H.B. No. 7 (senate committee report) as follows:

2 (1) In SECTION 17 of the bill, in added Section 263.002(b),
3 Family Code (page 6, line 53), between "each" and "hearing", insert
4 "permanency".

5 (2) In SECTION 17 of the bill, in added Section 263.002(c),
6 Family Code (page 6, line 60), strike "under this chapter" and
7 substitute "before the final order".

ADOPTED

MAY 24 2017

Lately Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 3

BY: *P. Hest*

1 Amend C.S.H.B. No. 7 (senate committee report) by adding the
2 following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Section 107.004, Family Code, is amended by
5 adding Subsection (d-3) to read as follows:

6 (d-3) An attorney ad litem appointed to represent a child in
7 the managing conservatorship of the Department of Family and
8 Protective Services shall periodically continue to review the
9 child's safety and well-being, including any effects of trauma to
10 the child, and take appropriate action, including requesting a
11 review hearing when necessary to address an issue of concern.

ADOPTED

MAY 24 2017

FLOOR AMENDMENT NO. 5

Latoy Spaul
Secretary of the Senate BY: _____

[Signature]

Amend C.S.H.B. No. 7 (senate committee report) by adding the following appropriately numbered SECTIONS and renumbering the SECTIONS of the bill as appropriate:

SECTION _____. Section 109.331(d), Alcoholic Beverage Code, is amended to read as follows:

(d) This section does not apply to a [~~foster group home,~~
~~foster family home,~~] family home, specialized child-care [~~agency group~~] home, or agency foster home as those terms are defined by Section 42.002, Human Resources Code.

SECTION _____. Section 29.081(d), Education Code, is amended to read as follows:

(d) For purposes of this section, "student at risk of dropping out of school" includes each student who is under 26 years of age and who:

(1) was not advanced from one grade level to the next for one or more school years;

(2) if the student is in grade 7, 8, 9, 10, 11, or 12, did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;

(3) did not perform satisfactorily on an assessment instrument administered to the student under Subchapter B, Chapter 39, and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of

satisfactory performance on that instrument;

(4) if the student is in prekindergarten, kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;

(5) is pregnant or is a parent;

(6) has been placed in an alternative education program in accordance with Section 37.006 during the preceding or current school year;

(7) has been expelled in accordance with Section 37.007 during the preceding or current school year;

(8) is currently on parole, probation, deferred prosecution, or other conditional release;

(9) was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;

(10) is a student of limited English proficiency, as defined by Section 29.052;

(11) is in the custody or care of the Department of Family and Protective [~~and Regulatory~~] Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;

(12) is homeless, as defined by 42 U.S.C. Section 11302, and its subsequent amendments; or

(13) resided in the preceding school year or resides in the current school year in a residential placement facility in the district, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house,

cottage home operation, specialized child-care home, or general residential operation [~~foster group home~~].

SECTION _____. Section 101.0133, Family Code, is amended to read as follows:

Sec. 101.0133. FOSTER CARE. "Foster care" means the placement of a child who is in the conservatorship of the Department of Family and Protective Services and in care outside the child's home in a residential child-care facility, including an [~~agency foster group home,~~] agency foster home, specialized child-care [~~foster group~~] home, cottage [~~foster~~] home operation, general residential operation, or another facility licensed or certified under Chapter 42, Human Resources Code, in which care is provided for 24 hours a day.

SECTION _____. Section 101.017, Family Code, is amended to read as follows:

Sec. 101.017. LICENSED CHILD PLACING AGENCY. "Licensed child placing agency" means a person, including an organization or corporation, licensed or certified under Chapter 42, Human Resources Code, by the Department of Family and Protective Services to place a child in an adoptive home or a residential child-care facility, including a child-care facility, agency foster home, cottage home operation, or general residential operation [~~agency foster group home, or adoptive home~~].

SECTION _____. Section 262.011, Family Code, as added by Chapter 338 (H.B. 418), Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 262.011. PLACEMENT IN SECURE AGENCY FOSTER HOME [~~OR SECURE AGENCY FOSTER GROUP HOME~~]. A court in an emergency, initial, or full adversary hearing conducted under this chapter may

order that the child who is the subject of the hearing be placed in a secure agency foster home [~~or secure agency foster group home~~] verified in accordance with Section 42.0531, Human Resources Code, if the court finds that:

(1) the placement is in the best interest of the child; and

(2) the child's physical health or safety is in danger because the child has been recruited, harbored, transported, provided, or obtained for forced labor or commercial sexual activity, including any child subjected to an act specified in Section 20A.02 or 20A.03, Penal Code.

SECTION _____. Section 263.008(a)(1), Family Code, is amended to read as follows:

(1) "Agency foster [~~group~~] home[~~7~~]" and [~~"agency foster home,"~~] "facility[~~7~~]" [~~"foster group home," and "foster home"~~] have the meanings assigned by Section 42.002, Human Resources Code.

SECTION _____. Section 263.008(e), Family Code, is amended to read as follows:

(e) An [~~agency foster group home,7~~] agency foster home[~~7~~ ~~foster group home, foster home,7~~] or other residential child-care facility in which a child is placed in foster care shall provide a copy of the foster children's bill of rights to a child on the child's request. The foster children's bill of rights must be printed in English and in a second language.

SECTION _____. Section 264.0111(a), Family Code, is amended to read as follows:

(a) A child for whom the department has been appointed managing conservator and who has been placed by the department in a residential [~~foster home or~~] child-care facility [~~institution~~] as

defined by Chapter 42, Human Resources Code, is entitled to keep any money earned by the child during the time of the child's placement.

SECTION _____. Sections 264.751(1) and (3), Family Code, are amended to read as follows:

(1) "Designated caregiver" means an individual who has a longstanding and significant relationship with a child for whom the department has been appointed managing conservator and who:

(A) is appointed to provide substitute care for the child, but is not ~~[licensed by the department or]~~ verified by a licensed child-placing agency ~~[or the department]~~ to operate an ~~[a foster home, foster group home,]~~ agency foster home~~[, or agency foster group home]~~ under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing conservator of the child after providing the care described by Paragraph (A).

(3) "Relative caregiver" means a relative who:

(A) provides substitute care for a child for whom the department has been appointed managing conservator, but who is not ~~[licensed by the department or]~~ verified by a licensed child-placing agency ~~[or the department]~~ to operate an ~~[a foster home, foster group home,]~~ agency foster home~~[, or agency foster group home]~~ under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing conservator of the child after providing the care described by Paragraph (A).

SECTION _____. Section 264.760, Family Code, is amended to read as follows:

Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND

PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of this subchapter, a relative or other designated caregiver who becomes ~~[licensed by the department or]~~ verified by a licensed child-placing agency ~~[or the department]~~ to operate an ~~[a foster home, foster group home,]~~ agency foster home~~[, or agency foster group home]~~ under Chapter 42, Human Resources Code, may receive foster care payments in lieu of the benefits provided by this subchapter, beginning with the first month in which the relative or other designated caregiver becomes licensed or is verified.

SECTION _____. Section 264.8521, Family Code, is amended to read as follows:

Sec. 264.8521. NOTICE TO APPLICANTS. At the time a person applies to become ~~[licensed by the department or]~~ verified by a licensed child-placing agency ~~[or the department]~~ to provide foster care in order to qualify for the permanency care assistance program, the department or the child-placing agency shall:

(1) notify the applicant that a background check, including a criminal history record check, will be conducted on the individual; and

(2) inform the applicant about criminal convictions that:

(A) preclude an individual from becoming a ~~[licensed foster home or]~~ verified agency foster home; and

(B) may also be considered in evaluating the individual's application.

SECTION _____. Section 531.151(3), Government Code, is amended to read as follows:

(3) "Institution" means:

(A) an ICF-IID, as defined by Section 531.002,

Health and Safety Code;

(B) a group home operated under the authority of the commission [~~Department of Aging and Disability Services~~], including a residential service provider under a Medicaid waiver program authorized under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n), as amended, that provides services at a residence other than the child's home or agency foster home;

(C) [~~a foster group home or an agency foster group home as defined by Section 42.002, Human Resources Code;~~

[~~(D)~~] a nursing facility;

(D) [~~(E)~~] a general residential operation for children with an intellectual disability that is licensed by the commission [~~Department of Family and Protective Services~~]; or

(E) [~~(F)~~] another residential arrangement other than a foster home as defined by Section 42.002, Human Resources Code, that provides care to four or more children who are unrelated to each other.

SECTION _____. Section 31.002(b), Human Resources Code, is amended to read as follows:

(b) In this chapter, the term "dependent child" also applies to a child:

(1) who meets the specifications set forth in Subsections (a)(1)-(4);

(2) who has been removed from the home of a relative specified in Subsection (a)(5) as a result of a judicial determination that the child's residence there is contrary to his or her welfare;

(3) whose placement and care are the responsibility of

the Department of Family and Protective Services or an agency with which the Department of Family and Protective Services has entered into an agreement for the care and supervision of the child;

(4) who has been placed in a residential [~~foster home or~~] child-care facility [~~institution~~] by the Department of Family and Protective Services; and

(5) for whom the state may receive federal funds for the purpose of providing foster care in accordance with rules promulgated by the executive commissioner.

SECTION _____. Section 31.008(d), Human Resources Code, is amended to read as follows:

(d) The commission may make payments on behalf of a dependent child residing in a residential [~~foster family home or a~~] child-care facility [~~institution~~] in accordance with the provisions of this chapter and commission rules.

SECTION _____. Section 42.002, Human Resources Code, is amended by amending Subdivisions (4), (5), (6), (10), (11), (12), (13), and (19) and adding Subdivision (24) to read as follows:

(4) "General residential operation" means a child-care facility that provides care for seven or more [~~than 12~~] children for 24 hours a day, including facilities known as [~~children's homes, halfway houses,~~] residential treatment centers and [~~7~~] emergency shelters [~~and therapeutic camps~~].

(5) "Continuum-of-care residential operation" means a group of residential child-care facilities that operate under the same license or certification to provide a continuum of services to children [~~"Foster group home" means a child-care facility that provides care for 7 to 12 children for 24 hours a day~~].

(6) "Cottage [~~Foster~~] home operation" means cottage

family homes that:

- (A) are identified on the operation's license;
- (B) share a child-care administrator who is responsible for oversight for all homes within the operation; and
- (C) are all in or near the same location as defined by department rule [a child-care facility that provides care for not more than six children for 24 hours a day].

(10) "Cottage family home" means a family residential setting with one or more homes operating under the license of a cottage home operation and in which:

- (A) each home has at least one houseparent who lives at the home while children are in care; and
- (B) based on the size of the home and the children's needs, each home cares for not more than six children ["Agency foster group home" means a facility that provides care for seven to 12 children for 24 hours a day, is used only by a licensed child-placing agency, and meets department standards].

(11) "Agency foster home" means a facility that provides care for not more than six children for 24 hours a day, is used only by a licensed child-placing agency or continuum-of-care residential operation, and meets department standards.

(12) "Child-placing agency" means a person, including an organization, other than the natural parents or guardian of a child who plans for the placement of or places a child in a child-care facility, agency foster home, [agency foster group home,] or adoptive home.

(13) "Facilities" includes child-care facilities, [and] child-placing agencies, and continuum-of-care residential operations.

(19) "Residential child-care facility" means a facility licensed or certified by the department that operates for all of the 24-hour day. The term includes general residential operations, child-placing agencies, specialized child-care [~~foster-group~~] homes, cottage home operations [~~foster-homes~~], continuum-of-care residential operations [~~agency foster group homes~~], and agency foster homes.

(24) "Specialized child-care home" means a child-care facility that:

(A) based on the size of the home and the children's needs, provides care for not more than six children for 24 hours a day; and

(B) has a director and has at least one houseparent who lives at the home while children are in care.

SECTION _____. Subchapter A, Chapter 42, Human Resources Code, is amended by adding Section 42.0031 to read as follows:

Sec. 42.0031. REFERENCE TO PART OF CONTINUUM-OF-CARE OPERATION. With respect to a continuum-of-care operation, a reference in this code or in any other law to a type of residential child-care facility that is a part of a continuum-of-care operation shall be construed as a reference to that portion of the continuum-of-care operation, and the department may take all regulatory action with respect to the continuum-of-care operation that the department could take with respect to the type of residential child-care facility, as further specified in department rule.

SECTION _____. Section 42.041(b), Human Resources Code, is amended to read as follows:

(b) This section does not apply to:

(1) a state-operated facility;

(2) an agency foster home [~~or agency foster group home~~];

(3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities, including retreats or classes for religious instruction, on or near the premises, that does not advertise as a child-care facility or day-care center, and that informs parents that it is not licensed by the state;

(4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;

(5) a youth camp licensed by the Department of State Health Services;

(6) a facility licensed, operated, certified, or registered by another state agency;

(7) an educational facility that is accredited by the Texas Education Agency, the Southern Association of Colleges and Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission and that operates primarily for educational purposes for prekindergarten and above, a before-school or after-school program operated directly by an accredited educational facility, or a before-school or after-school program operated by another entity under contract with the educational facility, if the Texas Education Agency, the Southern Association of Colleges and Schools, or the other accreditation body, as applicable, has approved the curriculum content of the before-school or after-school program operated under the contract;

(8) an educational facility that operates solely for educational purposes for prekindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Texas Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day;

(10) a family home, whether registered or listed;

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers an educational program in one or more of the following: prekindergarten through at least grade three, elementary grades, or secondary grades;

(12) an emergency shelter facility, other than a facility that would otherwise require a license as a child-care facility under this section, that provides shelter or care to a minor and the minor's child or children, if any, under Section 32.201, Family Code, if the facility:

(A) is currently under a contract with a state or federal agency; or

(B) meets the requirements listed under Section

51.005(b)(3);

(13) a juvenile detention facility certified under Section 51.12, Family Code, a juvenile correctional facility certified under Section 51.125, Family Code, a juvenile facility providing services solely for the Texas Juvenile Justice Department, or any other correctional facility for children operated or regulated by another state agency or by a political subdivision of the state;

(14) an elementary-age (ages 5-13) recreation program operated by a municipality provided the governing body of the municipality annually adopts standards of care by ordinance after a public hearing for such programs, that such standards are provided to the parents of each program participant, and that the ordinances shall include, at a minimum, staffing ratios, minimum staff qualifications, minimum facility, health, and safety standards, and mechanisms for monitoring and enforcing the adopted local standards; and further provided that parents be informed that the program is not licensed by the state and the program may not be advertised as a child-care facility;

(15) an annual youth camp held in a municipality with a population of more than 1.5 million that operates for not more than three months and that has been operated for at least 10 years by a nonprofit organization that provides care for the homeless;

(16) a food distribution program that:

(A) serves an evening meal to children two years of age or older; and

(B) is operated by a nonprofit food bank in a nonprofit, religious, or educational facility for not more than two hours a day on regular business days;

(17) a child-care facility that operates for less than three consecutive weeks and less than 40 days in a period of 12 months;

(18) a program:

(A) in which a child receives direct instruction in a single skill, talent, ability, expertise, or proficiency;

(B) that does not provide services or offerings that are not directly related to the single talent, ability, expertise, or proficiency;

(C) that does not advertise or otherwise represent that the program is a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services;

(D) that informs the parent or guardian:

(i) that the program is not licensed by the state; and

(ii) about the physical risks a child may face while participating in the program; and

(E) that conducts background checks for all program employees and volunteers who work with children in the program using information that is obtained from the Department of Public Safety;

(19) an elementary-age (ages 5-13) recreation program that:

(A) adopts standards of care, including standards relating to staff ratios, staff training, health, and safety;

(B) provides a mechanism for monitoring and enforcing the standards and receiving complaints from parents of enrolled children;

(C) does not advertise as or otherwise represent the program as a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services;

(D) informs parents that the program is not licensed by the state;

(E) is organized as a nonprofit organization or is located on the premises of a participant's residence;

(F) does not accept any remuneration other than a nominal annual membership fee;

(G) does not solicit donations as compensation or payment for any good or service provided as part of the program; and

(H) conducts background checks for all program employees and volunteers who work with children in the program using information that is obtained from the Department of Public Safety;

(20) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which the caretaker:

(A) had a prior relationship with the child or sibling group or other family members of the child or sibling group;

(B) does not care for more than one unrelated child or sibling group;

(C) does not receive compensation or solicit donations for the care of the child or sibling group; and

(D) has a written agreement with the parent to care for the child or sibling group;

(21) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which:

(A) the department is the managing conservator of the child or sibling group;

(B) the department placed the child or sibling group in the caretaker's home; and

(C) the caretaker had a long-standing and significant relationship with the child or sibling group before the child or sibling group was placed with the caretaker;

(22) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which the child is in the United States on a time-limited visa under the sponsorship of the caretaker or of a sponsoring organization; [✕]

(23) a facility operated by a nonprofit organization that:

(A) does not otherwise operate as a child-care facility that is required to be licensed under this section;

(B) provides emergency shelter and care for not more than 15 days to children 13 years of age or older but younger than 18 years of age who are victims of human trafficking alleged under Section 20A.02, Penal Code;

(C) is located in a municipality with a population of at least 600,000 that is in a county on an international border; and

(D) meets one of the following criteria:

(i) is licensed by, or operates under an agreement with, a state or federal agency to provide shelter and

care to children; or

(ii) meets the eligibility requirements for a contract under Section 51.005(b) (3); or

(24) a facility that provides respite care exclusively for a local mental health authority under a contract with the local mental health authority.

SECTION _____. Section 42.042, Human Resources Code, is amended by amending Subsections (e-1), (g), and (h-1) and adding Subsection (s) to read as follows:

(e-1) The department may not prohibit possession of lawfully permitted firearms and ammunition in [~~a foster home of any type, including a foster group home, a foster home, an agency foster group home, and~~] an agency foster home. Minimum standards may be adopted under this section relating to safety and proper storage of firearms and ammunition, including standards requiring firearms and ammunition to be stored separately in locked locations.

(g) In promulgating minimum standards the executive commissioner may recognize and treat differently the types of services provided by the following:

(1) registered family homes;

(2) child-care facilities, including general residential operations, cottage home operations [~~foster group homes~~], specialized child-care [~~foster~~] homes, group day-care homes, and day-care centers;

(3) child-placing agencies;

(4) agency foster homes;

(5) continuum-of-care residential operations [~~agency foster group homes~~];

(6) before-school or after-school programs; and

(7) school-age programs.

(h-1) The executive commissioner shall adopt rules governing:

(1) the placement and care of children by a child-placing agency, as necessary to ensure the health and safety of those children;

(2) the verification and monitoring of agency foster homes[, ~~agency foster group homes,~~] and adoptive homes by a child-placing agency; and

(3) if appropriate, child-placing agency staffing levels, office locations, and administration.

(s) A continuum-of-care residential operation shall ensure that each residential child-care facility operating under the operation's license complies with this chapter and any standards and rules adopted under this chapter that apply to the facility. The executive commissioner by rule may prescribe the actions a continuum-of-care residential operation must take to comply with the minimum standards for each facility type.

SECTION _____. Section 42.0421(e), Human Resources Code, is amended to read as follows:

(e) In addition to other training required by this section, the executive commissioner by rule shall require an owner, operator, or employee of a day-care center, group day-care home, registered family home, general residential operation, cottage home operation [~~foster group home~~], or specialized child-care [~~agency foster group~~] home who transports a child under the care of the facility whose chronological or developmental age is younger than nine years of age to complete at least two hours of annual training on transportation safety.

SECTION _____. Section 42.044(e), Human Resources Code, is

amended to read as follows:

(e) In addition to the department's responsibility to investigate an agency foster home [~~or agency foster group home~~] under Subsection (c), the department shall:

(1) periodically conduct inspections of a random sample of agency foster homes [~~and agency foster group homes~~];

(2) investigate any report of a serious incident in an agency foster home [~~or agency foster group home~~] that pertains to a child under the age of six;

(3) investigate any alleged violation of a minimum standard by an agency foster home [~~or agency foster group home~~] that poses a high degree of risk to a child in the care of the home who is under the age of six; and

(4) conduct at least one annual enforcement team conference for each child-placing agency to thoroughly review the investigations or inspections of the child-placing agency and all of its agency foster homes to monitor and enforce compliance by a child-placing agency with rules and standards established under Section 42.042.

SECTION _____. Section 42.0448, Human Resources Code, is amended to read as follows:

Sec. 42.0448. NOTIFICATION OF FAMILY VIOLENCE CALLS. The department shall notify a child-placing agency or a continuum-of-care residential operation that includes a child-placing agency of each family violence report the department receives under Article 5.05, Code of Criminal Procedure, that:

(1) occurred at an agency foster home [~~verified by the child-placing agency~~]; or

(2) involves a person who resides at an agency foster

home ~~[verified by the child-placing agency]~~.

SECTION _____. Section 42.0449, Human Resources Code, is amended to read as follows:

Sec. 42.0449. REQUIRED ACTIONS AFTER NOTICE OF FAMILY VIOLENCE CALL. The executive commissioner shall adopt rules specifying the actions that the department, ~~[an independent foster home, and]~~ a child-placing agency, and a continuum-of-care residential operation that includes a child-placing agency shall take after receiving notice of a family violence report under Article 5.05, Code of Criminal Procedure, or Section 42.0448 to ensure the health, safety, and welfare of each child residing in the ~~[licensed foster home or]~~ verified agency foster home.

SECTION _____. Section 42.045(d), Human Resources Code, is amended to read as follows:

(d) A ~~[An independent foster home and a]~~ child-placing agency shall notify the department of any change of address for an ~~[a licensed foster home or a verified]~~ agency foster home. The ~~[independent foster home and]~~ child-placing agency shall notify the department of the address change within the earlier of two business days or 72 hours of the date the agency foster home changes its address.

SECTION _____. The heading to Section 42.0451, Human Resources Code, is amended to read as follows:

Sec. 42.0451. DATABASE OF AGENCY FOSTER HOMES; INFORMATION PROVIDED TO DEPARTMENT OF PUBLIC SAFETY.

SECTION _____. Sections 42.0451(a) and (c), Human Resources Code, are amended to read as follows:

(a) The department shall maintain a database of ~~[licensed foster homes and verified]~~ agency foster homes including the

current address for each agency foster ~~[licensed or verified]~~ home as reported to the department. The database must be updated on a regular basis.

(c) The Department of Public Safety shall include the information provided under Subsection (b) in the Texas Crime Information Center database and establish a procedure by which a peace officer or employee of a law enforcement agency who provides the department with a street address is automatically provided information as to whether the address is ~~[licensed as a foster home or]~~ verified as an agency foster home under this chapter.

SECTION _____. Section 42.0452, Human Resources Code, is amended to read as follows:

Sec. 42.0452. FOSTER PARENT RIGHTS AND RESPONSIBILITIES STATEMENT. (a) The department shall develop a statement that lists the rights and responsibilities of a foster parent in ~~[a foster home or]~~ an agency foster home and ~~[of the department or]~~ a child-placing agency, as applicable.

(b) The department shall provide a written copy of the statement developed under Subsection (a) to each foster parent in an agency ~~[a]~~ foster home and to each child-placing agency licensed by the department. A child-placing agency shall provide a written copy of the statement developed under Subsection (a) to each foster parent in an agency foster home verified by the child-placing agency.

SECTION _____. Section 42.046(a), Human Resources Code, is amended to read as follows:

(a) An applicant for a license to operate a child-care facility, ~~[or]~~ child-placing agency, or continuum-of-care residential operation or for a listing or registration to operate a

family home shall submit to the department the appropriate fee prescribed by Section 42.054 and a completed application on a form provided by the department.

SECTION _____. The heading to Section 42.0461, Human Resources Code, is amended to read as follows:

Sec. 42.0461. PUBLIC NOTICE AND HEARING [~~IN CERTAIN COUNTIES~~]: RESIDENTIAL CHILD CARE.

SECTION _____. Sections 42.0461(a), (d), and (e), Human Resources Code, are amended to read as follows:

(a) Before the department may issue a license or certificate for the operation or the expansion of the capacity [~~of a foster group home or foster family home that is located in a county with a population of less than 300,000 and that provides child care for 24 hours a day at a location other than the actual residence of a child's primary caretaker or~~] of a general residential operation, a cottage home operation, or a continuum-of-care residential operation that is located in a county with a population of less than 300,000, the applicant for the license, certificate, or expansion shall, at the applicant's expense:

(1) conduct a public hearing on the application in accordance with department rules after notifying the department of the date, time, and location of the hearing; and

(2) publish notice of the application in a newspaper of general circulation in the community in which the child-care services are proposed to be provided.

(d) Before issuing a license or certificate described by Subsection (a), the department shall consider written information provided by an interested party directly to the department's representative at the public hearing concerning:

(1) the amount of local resources available to support children proposed to be served by the applicant;

(2) the impact of the proposed child-care services on the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the effect, if any, on the children proposed to be served by the applicant; and

(3) the impact of the proposed child-care services on the community and the effect on opportunities for social interaction for the children proposed to be served by the applicant.

(e) Based on the written information provided to the department's representative at the public hearing, the [The] department may deny the application if the department determines that:

(1) the community has insufficient resources to support children proposed to be served by the applicant;

(2) granting the application would significantly increase the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the increase would adversely affect the children proposed to be served by the applicant; or

(3) granting the application would have a significant adverse impact on the community and would limit opportunities for social interaction for the children proposed to be served by the applicant.

SECTION _____. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.0463 to read as follows:

Sec. 42.0463. EXPANSION OF CAPACITY. (a) Notwithstanding

the limitations established by Section 42.002, the department may:

(1) develop, by rule, criteria to determine when it may be appropriate to exclude children who are related to a caretaker in determining a residential child-care facility's total capacity; and

(2) issue an exception in accordance with department rules allowing an agency foster home, cottage family home, or specialized child-care home to expand its capacity and care for not more than eight children.

(b) The department may include children who are related to a caretaker when determining under Subsection (a)(1) whether a residential child-care facility complies with the standards relating to total capacity or child-to-caregiver ratios for the facility.

SECTION _____. Section 42.048(e), Human Resources Code, is amended to read as follows:

(e) A license issued under this chapter is not transferable and applies only to the operator and facility location stated in the license application. Except as provided by this subsection, a change in location or ownership automatically revokes a license. A change in location of a child-placing agency does not automatically revoke the license to operate the child-placing agency. A residential child-care facility operating under the license of a continuum-of-care residential operation that changes location may not continue to operate under that license unless the department approves the new location after the continuum-of-care residential operation meets all requirements related to the new location.

SECTION _____. Section 42.053, Human Resources Code, is amended to read as follows:

Sec. 42.053. AGENCY FOSTER HOMES [~~AND AGENCY FOSTER GROUP HOMES~~]. (a) An agency foster home [~~or agency foster group home~~] is considered part of the child-placing agency that operates the agency foster home [~~or agency foster group home~~] for purposes of licensing.

(b) The operator of a licensed agency shall display a copy of the license in a prominent place in the agency foster home [~~or agency foster group home~~] used by the agency.

(c) An agency foster home [~~or agency foster group home~~] shall comply with all provisions of this chapter and all department rules and standards that apply to a child-care facility caring for a similar number of children for a similar number of hours each day.

(d) The department shall revoke or suspend the license of a child-placing agency if an agency foster home [~~or agency foster group home~~] operated by the licensed agency fails to comply with Subsection (c).

(e) Before verifying an agency foster home, a child-placing agency may issue a provisional verification to the home. The executive commissioner by rule may establish the criteria for a child-placing agency to issue a provisional verification to a prospective agency foster home.

(f) If a child-placing agency under contract with the division to provide services as an integrated care coordinator places children with caregivers described by Subchapter I, Chapter 264, Family Code, those caregivers are not considered a part of the child-placing agency for purposes of licensing.

SECTION _____. Section 42.0531, Human Resources Code, is amended to read as follows:

Sec. 42.0531. SECURE AGENCY FOSTER HOMES [~~AND SECURE AGENCY~~

~~FOSTER GROUP HOMES~~]. (a) The commissioners court of a county or governing body of a municipality may contract with a child-placing agency to verify a secure agency foster home [~~or secure agency foster group home~~] to provide a safe and therapeutic environment tailored to the needs of children who are victims of trafficking.

(b) A child-placing agency may not verify a secure agency foster home [~~or secure agency foster group home~~] to provide services under this section unless the child-placing agency holds a license issued under this chapter that authorizes the agency to provide services to victims of trafficking in accordance with department standards adopted under this chapter for child-placing agencies.

(c) A secure agency foster home [~~or secure agency foster group home~~] verified under this section must provide:

(1) mental health and other services specifically designed to assist children who are victims of trafficking under Section 20A.02 or 20A.03, Penal Code, including:

- (A) victim and family counseling;
- (B) behavioral health care;
- (C) treatment and intervention for sexual assault;
- (D) education tailored to the child's needs;
- (E) life skills training;
- (F) mentoring; and
- (G) substance abuse screening and treatment as needed;

(2) individualized services based on the trauma endured by a child, as determined through comprehensive assessments of the service needs of the child;

(3) 24-hour services; and

(4) appropriate security through facility design, hardware, technology, and staffing.

SECTION _____. Sections 42.0535(a), (b), (d), and (e), Human Resources Code, are amended to read as follows:

(a) A child-placing agency that seeks to verify an agency foster home [~~or an agency group home~~] shall request background information about the agency foster home [~~or group home~~] from a child-placing agency that has previously verified the home as an [~~that~~] agency foster home or agency foster group home.

(b) Notwithstanding Section 261.201, Family Code, a child-placing agency that has verified an agency foster home or an agency foster group home is required to release to another child-placing agency background information requested under Subsection (a).

(d) For purposes of this section, background information means the home study under which the agency foster home or agency foster group home was verified by the previous child-placing agency and any record of noncompliance with state minimum standards received and the resolution of any such noncompliance by the previous child-placing agency.

(e) The executive commissioner by rule shall develop a process by which a child-placing agency shall report to the department:

(1) the name of any agency [~~verified~~] foster home [~~or foster group home~~] that has been closed for any reason, including a voluntary closure;

(2) information regarding the reasons for the closure of the agency foster home [~~or foster group home~~]; and

(3) the name and other contact information of a person who may be contacted by another child-placing agency to obtain the

records relating to the closed agency foster home [~~or foster group home~~] that are required to be maintained and made available under this section.

SECTION _____. Sections 42.054(a), (b), (d), and (g), Human Resources Code, are amended to read as follows:

(a) The department shall charge an applicant a nonrefundable application fee for an initial license to operate a child-care facility, [~~or~~] a child-placing agency, or a continuum-of-care residential operation.

(b) The department shall charge each child-care facility a fee for an initial license. The department shall charge each child-placing agency and continuum-of-care residential operation a fee for an initial license.

(d) The department shall charge each licensed child-placing agency and continuum-of-care residential operation an annual license fee. The fee is due on the date on which the department issues the [~~child-placing agency's~~] initial license to the child-placing agency or continuum-of-care residential operation and on the anniversary of that date.

(g) The provisions of Subsections (b) through (f) do not apply to:

(1) [~~licensed foster homes and licensed foster group homes;~~

[~~2~~] nonprofit facilities regulated under this chapter that provided 24-hour care for children in the managing conservatorship of the department during the 12-month period immediately preceding the anniversary date of the facility's license;

(2) [~~3~~] facilities operated by a nonprofit corporation

or foundation that provides 24-hour residential care and does not charge for the care provided; or

(3) ~~(4)~~ a family home listed under Section 42.0523 in which the relative child-care provider cares for the child in the child's own home.

SECTION _____. Section 42.0561, Human Resources Code, is amended to read as follows:

Sec. 42.0561. INFORMATION RELATING TO FAMILY VIOLENCE REPORTS. Before ~~[the department may issue a license or registration for a foster home or]~~ a child-placing agency may issue a verification certificate for an agency foster home, the ~~[department or]~~ child-placing agency must obtain information relating to each family violence report at the applicant's residence to which a law enforcement agency responded during the 12 months preceding the date of the application. The applicant shall provide the information on a form prescribed by the department.

SECTION _____. Section 42.063(d), Human Resources Code, is amended to read as follows:

(d) An employee or volunteer of a general residential operation, child-placing agency, continuum-of-care residential operation, cottage home operation ~~[foster home]~~, or specialized child-care ~~[foster group]~~ home shall report any serious incident directly to the department if the incident involves a child under the care of the operation, agency, or home.

SECTION _____. Sections 42.0461(f) and (g), Human Resources Code, are repealed.

SECTION _____. Subject to an appropriation of funds for this purpose, the executive commissioner of the Health and Human Services Commission shall adopt minimum standards related to

continuum-of-care operations, cottage home operations, and specialized child-care homes as provided by Section 42.042, Human Resources Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION _____. (a) The executive commissioner of the Health and Human Services Commission shall develop and implement a procedure by which a residential child-care facility that holds a license or certification issued under Chapter 42, Human Resources Code, may convert the license or certification to a new type of residential child-care facility license or certification created by this Act.

(b) With respect to a residential child-care facility converting a license or certification under Subsection (a) of this section, the Health and Human Services Commission may waive requirements for an initial inspection, an initial background and criminal history check, or a family violence report, or for notice and hearing if the commission determines that previous inspections, background and criminal history checks, family violence reports, or notice and hearing, as applicable, were conducted and are sufficient to ensure the safety of children receiving care at the residential child-care facility converting a license or certification.

SECTION _____. (a) The executive commissioner of the Health and Human Services Commission shall develop and implement a procedure that requires a foster home or a foster group home that holds a license issued by the Department of Family and Protective Services under Chapter 42, Human Resources Code, before September 1, 2017, to convert the license to another residential child-care facility license issued under Chapter 42, Human Resources Code, or

relinquish the license.

(b) With respect to a foster home or foster group home converting a license under Subsection (a) of this section, the Health and Human Services Commission may waive requirements for an initial inspection, an initial background and criminal history check, or a family violence report, or for notice and hearing if the commission determines that previous inspections, background and criminal history checks, family violence reports, or notice and hearing, as applicable, were conducted and are sufficient to ensure the safety of children receiving care at the foster home or foster group home converting a license or certification.

(c) The Department of Family and Protective Services may not issue a license or certification to a foster home or foster group home after August 31, 2017.

(d) A foster home or a foster group home that was licensed by the department before September 1, 2017, may continue to operate under the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose, until each foster home and foster group home has been converted to another residential child-care facility license or the license has been relinquished.

SECTION _____. (a) The executive commissioner of the Health and Human Services Commission shall develop and implement a procedure that requires a child-placing agency that verified, before September 1, 2017, an agency foster group home according to the Minimum Standards for Child-Placing Agencies to convert the agency foster group home to an agency foster home or to close the agency foster group home.

(b) With respect to a child-placing agency converting an

agency foster group home under Subsection (a) of this section, the Health and Human Services Commission may waive requirements for an initial inspection, an initial background and criminal history check, or a family violence report, if the commission determines that previous inspections, background and criminal history checks, or family violence reports, as applicable, were conducted and are sufficient to ensure the safety of children receiving care at the agency foster home.

(c) A child-placing agency may not verify an agency foster group home after August 31, 2017.

(d) An agency foster group home that was verified by a child-placing agency before September 1, 2017, may continue to operate under the child-placing agency that verified the home and under the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose, until each agency foster group home has been converted to a verified foster home or has been closed.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Wu (Relating to child protective services suits, motions, and services by the Department of Family and Protective Services.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Passed 2nd House: a negative impact of (\$4,401,428) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Certain provisions of the bill would only take effect if the Eighty-fifth Legislature appropriates money specifically for the purpose of implementing those provisions; otherwise, the provisions would not take effect.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$1,805,616)
2019	(\$2,595,812)
2020	(\$2,595,812)
2021	(\$2,595,812)
2022	(\$2,595,812)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>GR Match For Medicaid</i> 758	Probable Savings/(Cost) from <i>Federal Funds</i> 555	Change in Number of State Employees from FY 2017
2018	(\$1,793,887)	(\$11,729)	(\$117,291)	10.2
2019	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2
2020	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2
2021	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2
2022	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2

Fiscal Analysis

The bill would amend the Family Code, Government Code, Health and Safety Code, Human Resources Code, and Penal Code relating to child protective services suits, motions, and services by the Department of Family and Protective Services (DFPS).

The bill would require DFPS, upon request, to provide certain information to a parent's attorney or child's attorney ad litem before the full adversary hearing.

The bill would amend a provision in the Health and Safety Code to limit DFPS's ability to admit a minor to an inpatient mental health facility. With this bill, DFPS would be required to go through an application for court-ordered mental health services, emergency detention, or an order for protective custody or have a physician state the minor is a person with a mental illness or serious emotional disorder and one who presents a risk of serious harm to self or others if not immediately restrained or hospitalized. The bill would require DFPS to periodically review the need for continued inpatient treatment of the minor and, if inpatient treatment is no longer needed, DFPS would be required to place the child in the least restrictive environment, as appropriate.

The bill would amend a provision in the Penal Code to apply violations of certain court orders (created elsewhere in the bill) to child abuse or neglect cases, creating an offense.

The bill would modify the existing Child Care Licensing licensure process to allow for additional license types for certain providers of child-care services. The bill would allow a child-placing agency to issue a provisional verification to a prospective agency foster home.

The bill would require the Executive Commissioner of the Health and Human Services Commission (HHSC) to adopt minimum standards related to certain new license types for certain child-care providers. The bill would also require HHSC to develop and implement a procedure to require a foster home or foster group home to convert a current license to another residential child-care facility license under Chapter 42, Human Resources Code, and to require a child-placing agency to convert certain agency foster group homes to an agency foster home or to close the agency foster group home.

Certain provisions of the bill would only take effect if the Eighty-fifth Legislature appropriates money specifically for the purpose of implementing those provisions: the provisions affected by this limitation include Subchapter F, Chapter 261, Family Code (Protective Order in Certain Cases of Abuse or Neglect), Section 262.206, Family Code (Ex Parte Hearings Prohibited), Section 572.001, Health and Safety Code (admission to inpatient mental health facility), Section 25.07, Penal Code (violation of certain orders relating to child abuse or neglect), and Section 42.042, Human Resources Code (minimum standards related to continuum-of-care operations, cottage

home operations, and specialized child-care homes). This estimate does not identify costs with all of those provisions.

Except as otherwise provided, the bill would take effect on September 1, 2017. The bill stipulates how and when the provisions of the bill are to be applied and lists under which circumstances former law is continued in effect.

Methodology

The bill is estimated to result in a cost of \$1,172,907, in All Funds, in fiscal year 2018, and a cost of \$1,088,379, in All Funds, in fiscal year 2019.

According to DFPS and HHSC, all of the duties and responsibilities associated with implementing the provisions of the bill related to coordinating with TJJD for services to multi-system youth, developing recommendations related to jury selection methods, permitting guardians ad litem to interview educators and child welfare service providers, filing protective orders jointly with a parent, relative or caregiver of the child, postponing the adversary hearing to allow a parent to work with an attorney, and requiring MCOs in STAR Health ensure continuity of care for a child whose substitute care placement has changed could be accomplished by utilizing existing agency resources.

According to DFPS, the requirement to provide certain information that will be introduced as evidence to the attorney or attorneys representing a parent or a child prior to a full adversary hearing, three additional investigative caseworkers would be necessary to attach evidence to petitions. That would result in a cost of \$323,552, in All Funds, in fiscal year 2018 for salary, benefits, and related expenses and \$298,568, in All Funds, in each fiscal year thereafter. DFPS estimates each removal has an average of 10 photos at \$0.39 cents per photo, resulting in a cost of \$74,408 in All Funds per fiscal year. DFPS estimates each removal has one audio recording at a cost of \$.20 per recording, resulting in a cost of \$3,816 in All Funds per fiscal year.

DFPS assumes about 10 percent of total inpatient mental health admissions, approximately 450 per year. According to the agency, this would require an additional 16 hours of caseworker time to obtain the needed certifications, participate in court hearings, and transport the minor to the additional appointments for examination. To accomplish this requirement, the agency reports an additional 4.5 conservatorship (CVS) workers plus ratio driven staff will be needed. This analysis assumes that an additional 7.15 FTE would be needed to implement this provision. This would result in a cost of approximately \$771,131, in All Funds, in fiscal year 2018 for salary, benefits, and related expenses and \$711,587, in All Funds, in each fiscal year thereafter.

The Office of Court Administration (OCA) does not anticipate a significant fiscal impact to the state court system related to the creation of a new criminal offense. OCA also does not anticipate a significant increase in the caseload or duties of the courts.

This analysis assumes that the addition of licensing types will require significant changes to the Child Care Licensing Automated Support System (CLASS). DFPS is currently in the process of initiating several projects related to IMPACT Phase II, and this analysis assumes that enhancements to the current system within the larger set of IMPACT projects would cost an additional estimated \$750,000 in fiscal year 2018.

Based on the LBB's analysis of DFPS, the addition of new license types would not result in children moving into different rate levels.

Provisions of the bill related to provisional verification of foster homes would allow kinship caregivers who are going through the process of becoming verified foster parents to receive foster care payments at an earlier date. According to DFPS, the average kinship foster family takes three months to achieve full licensure. Under current law, no new Permanency Care Assistance agreements may be entered into after the close of fiscal year 2017. It is assumed that this will result in a 50 percent reduction in the number of families entering paid kinship care, as federal and state law requires that a home must be verified for a minimum of six consecutive months to be eligible for Permanency Care Assistance and many families undertake the verification process in order to receive Permanency Care Assistance.

This analysis assumes that provisional licensure will begin on September 1, 2018 to provide time to promulgate program rules. Based on fiscal year 2016 data, it is assumed that approximately 1,200 children would enter paid kinship care annually. The children would be eligible for an extra three months of payments, at an average monthly cost of \$1,214. Total costs would be \$1.6 million in General Revenue and \$4.4 million in All Funds in fiscal year 2019 and each year thereafter. This analysis assumes that IV-E eligibility and method of finance would remain constant.

In the event that the Permanency Care Assistance program is continued, DFPS assumes that any costs associated with provisional verification would be offset by a faster exit from the foster system.

Based on the LBB's analysis of the Health and Human Services Commission, costs related to the adoption of minimum standards and procedures related to the implementation of the new licensing types created by the bill are minimal and could be absorbed by utilizing existing agency resources.

Technology

This analysis assumes that the addition of licensing types will require significant changes to the Child Care Licensing Automated Support System (CLASS). DFPS is currently in the process of initiating several projects related to IMPACT Phase II, and this analysis assumes that enhancements to the current system within the larger set of IMPACT projects would cost an additional estimated \$750,000 in fiscal year 2018.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 302 Office of the Attorney General, 529 Health and Human Services Commission, 696 Department of Criminal Justice

LBB Staff: UP, KCA, JJ, DFR, JLi, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 23, 2017

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Wu (Relating to child protective services suits, motions, and services by the Department of Family and Protective Services.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, Committee Report 2nd House, Substituted: a negative impact of (\$2,035,157) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Certain provisions of the bill would only take effect if the Eighty-fifth Legislature appropriates money specifically for the purpose of implementing those provisions; otherwise, the provisions would not take effect.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$1,055,616)
2019	(\$979,541)
2020	(\$979,541)
2021	(\$979,541)
2022	(\$979,541)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from GR Match For Medicaid 758	Probable Savings/(Cost) from Federal Funds 555	Change in Number of State Employees from FY 2017
2018	(\$1,043,887)	(\$11,729)	(\$117,291)	10.2
2019	(\$968,657)	(\$10,884)	(\$108,838)	10.2
2020	(\$968,657)	(\$10,884)	(\$108,838)	10.2
2021	(\$968,657)	(\$10,884)	(\$108,838)	10.2
2022	(\$968,657)	(\$10,884)	(\$108,838)	10.2

Fiscal Analysis

The bill would amend the Family Code, Government Code, Health and Safety Code, Human Resources Code, and Penal Code relating to child protective services suits, motions, and services by the Department of Family and Protective Services (DFPS).

The bill would require DFPS, upon request, to provide certain information to a parent's attorney or child's attorney ad litem before the full adversary hearing.

The bill would amend a provision in the Health and Safety Code to limit DFPS's ability to admit a minor to an inpatient mental health facility. With this bill, DFPS would be required to go through an application for court-ordered mental health services, emergency detention, or an order for protective custody or have a physician state the minor is a person with a mental illness or serious emotional disorder and one who presents a risk of serious harm to self or others if not immediately restrained or hospitalized. The bill would require DFPS to periodically review the need for continued inpatient treatment of the minor and, if inpatient treatment is no longer needed, DFPS would be required to place the child in the least restrictive environment, as appropriate.

The bill would amend a provision in the Penal Code to apply violations of certain court orders (created elsewhere in the bill) to child abuse or neglect cases, creating an offense.

Certain provisions of the bill would only take effect if the Eighty-fifth Legislature appropriates money specifically for the purpose of implementing those provisions: the provisions affected by this limitation include Subchapter F, Chapter 261, Family Code (Protective Order in Certain Cases of Abuse or Neglect), Section 262.206, Family Code (Ex Parte Hearings Prohibited), Section 572.001, Health and Safety Code (admission to inpatient mental health facility), Section 25.07, Penal Code (violation of certain orders relating to child abuse or neglect). This estimate does not identify costs with all of those provisions.

Except as otherwise provided, the bill would take effect on September 1, 2017. The bill stipulates how and when the provisions of the bill are to be applied and lists under which circumstances former law is continued in effect.

Methodology

The bill is estimated to result in a cost of \$1,172,907, in All Funds, in fiscal year 2018, and a cost of \$1,088,379, in All Funds, in fiscal year 2019.

According to DFPS and HHSC, all of the duties and responsibilities associated with implementing the provisions of the bill related to coordinating with TJJD for services to multi-system youth,

developing recommendations related to jury selection methods, permitting guardians ad litem to interview educators and child welfare service providers, filing protective orders jointly with a parent, relative or caregiver of the child, postponing the adversary hearing to allow a parent to work with an attorney, and requiring MCOs in STAR Health ensure continuity of care for a child whose substitute care placement has changed could be accomplished by utilizing existing agency resources.

According to DFPS, the requirement to provide certain information that will be introduced as evidence to the attorney or attorneys representing a parent or a child prior to a full adversary hearing, three additional investigative caseworkers would be necessary to attach evidence to petitions. That would result in a cost of \$323,552, in All Funds, in fiscal year 2018 for salary, benefits, and related expenses and \$298,568, in All Funds, in each fiscal year thereafter. DFPS estimates each removal has an average of 10 photos at \$0.39 cents per photo, resulting in a cost of \$74,408 in All Funds per fiscal year. DFPS estimates each removal has one audio recording at a cost of \$.20 per recording, resulting in a cost of \$3,816 in All Funds per fiscal year.

DFPS assumes about 10 percent of total inpatient mental health admissions, approximately 450 per year. According to the agency, this would require an additional 16 hours of caseworker time to obtain the needed certifications, participate in court hearings, and transport the minor to the additional appointments for examination. To accomplish this requirement, the agency reports an additional 4.5 conservatorship (CVS) workers plus ratio driven staff will be needed. This analysis assumes that an additional 7.15 FTE would be needed to implement this provision. This would result in a cost of approximately \$771,131, in All Funds, in fiscal year 2018 for salary, benefits, and related expenses and \$711,587, in All Funds, in each fiscal year thereafter.

The Office of Court Administration (OCA) does not anticipate a significant fiscal impact to the state court system related to the creation of a new criminal offense. OCA also does not anticipate a significant increase in the caseload or duties of the courts.

Technology

No significant technology-related costs reported by DFPS.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 302 Office of the Attorney General, 529 Health and Human Services Commission, 696 Department of Criminal Justice

LBB Staff: UP, KCA, JJ, DFR, JLi, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 16, 2017

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Wu (Relating to child protective services suits, motions, and services by the Department of Family and Protective Services.), As Engrossed

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Engrossed: a negative impact of (\$36,939,594) through the biennium ending August 31, 2019.

In addition, there could be a fiscal impact to the state for provisions of the bill related to grants for family drug courts; however, due to the number of unknown variables, such as the number of potential recipients and the value of the grants, the amount cannot be determined.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$19,095,721)
2019	(\$17,843,873)
2020	(\$17,887,202)
2021	(\$17,926,602)
2022	(\$17,964,475)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from GR Match For Medicaid 758	Probable Savings/(Cost) from Federal Funds 555	Change in Number of State Employees from FY 2017
2018	(\$18,883,546)	(\$212,175)	(\$2,121,747)	153.5
2019	(\$17,645,608)	(\$198,265)	(\$1,982,653)	153.5
2020	(\$17,688,455)	(\$198,747)	(\$1,987,467)	153.5
2021	(\$17,727,418)	(\$199,184)	(\$1,991,845)	153.5
2022	(\$17,764,870)	(\$199,605)	(\$1,996,053)	153.5

Fiscal Analysis

The bill would amend the Family Code, Government Code, Health and Safety Code, Human Resources Code, and Penal Code relating to child protective services suits, motions, and services by the Department of Family and Protective Services (DFPS).

The bill would require DFPS, upon request, to provide certain information to a parent's attorney or child's attorney ad litem before the full adversary hearing.

The bill would require DFPS to conduct an annual independent living skill assessment for children in the conservatorship of the state, beginning at 16 years of age, and allow DFPS to conduct the assessment for youth in permanent managing conservatorship, beginning at age 14, depending on funding. The bill would require DFPS to update the assessment annually. The bill would require DFPS to create a plan to standardize the Preparation for Adult Living Program curriculum and report the plan to the legislature no later than December 1, 2018.

The bill would create the Family Drug Court Fund as a dedicated account in the General Revenue fund, to be administered by HHSC. The fund would be comprised of appropriations of money to the fund by the Legislature, and gifts, grants, and other donations received for the fund. The bill would require that funds from the account only be used to pay counties to establish and administer a family drug court, if funds are available.

The bill would amend a provision in the Health and Safety Code to limit DFPS's ability to admit a minor to an inpatient mental health facility. With this bill, DFPS would be required to go through an application for court-ordered mental health services, emergency detention, or an order for protective custody or have a physician state the minor is a person with a mental illness or serious emotional disorder and one who presents a risk of serious harm to self if not immediately restrained or hospitalized. The bill would require DFPS to periodically review the need for continued inpatient treatment of the minor and, if inpatient treatment is no longer needed, DFPS would be required to place the child in the least restrictive environment, as appropriate.

The bill would amend a provision in the Penal Code to apply violations of certain court orders (created elsewhere in the bill) to child abuse or neglect cases, creating an offense.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

This bill would take effect on September 1, 2017. The bill stipulates how and when the provisions of the bill are to be applied and lists under which circumstances former law is continued in effect.

Methodology

The bill is estimated to result in a cost of \$21,217,468, in All Funds, in fiscal year 2018, and a cost of \$19,826,526, in All Funds, in fiscal year 2019.

According to DFPS and HHSC, all of the duties and responsibilities associated with implementing the provisions of the bill related to coordinating with TJJD for services to multi-system youth, developing recommendations related to jury selection methods, permitting guardians ad litem to interview educators and child welfare service providers, filing protective orders jointly with a parent, relative or caregiver of the child, postponing the adversary hearing to allow a parent to

work with an attorney, requiring all necessary referrals to service providers for parents are done within five days of the adversary hearing, and requiring MCOs in STAR Health ensure continuity of care for a child whose substitute care placement has changed could be accomplished by utilizing existing agency resources.

According to DFPS, the requirement to provide certain information that will be introduced as evidence to the attorney or attorneys representing a parent or a child prior to a full adversary hearing, three additional investigative caseworkers would be necessary to attach evidence to petitions. That would result in a cost of \$336,673, in All Funds, in fiscal year 2018 for salary and benefits and \$314,769, in All Funds, in each fiscal year thereafter. DFPS estimates each removal has an average of 10 photos at \$0.39 cents per photo, resulting in a cost of \$74,408 in All Funds per fiscal year. DFPS estimates each removal has one audio recording at a cost of \$.20 per recording, resulting in a cost of \$3,816 in All Funds per fiscal year.

According to DFPS, conducting the annual life skills assessment for youth age 16 or older and some youth age 14 or older can be accomplished within existing agency resources.

This analysis assumes that administrative costs related to the establishment and operation of a grant program for family drug courts can be absorbed within HHSC's existing resources. However, there could be an indeterminate fiscal impact to the state depending upon the number and value of grants.

DFPS assumes about 10 percent of total inpatient mental health admissions, approximately 450 per year, will use the probate court process and that about half of those children will be admitted to an inpatient mental health facility through the process. According to the agency, this would require an additional 16 hours of caseworker time to obtain the needed certifications, participate in court hearings, and transport the minor to the additional appointments for examination. To accomplish this requirement, the agency reports an additional 4.5 conservatorship (CVS) workers plus ratio driven staff (3 FTE) will be needed. According to DFPS, the agency would require an additional 2 FTEs to manage the increased use of child specific contracts. This analysis assumes that each additional FTE would cost approximately \$100,905 per fiscal year for salary, benefits, and other related expenses.

According to DFPS, the bill's requirement that a child be a risk of harm to self to be admitted to an inpatient facility eliminates admissions for children who may be a risk of harm to others but not themselves. DFPS reports these children may have underlying psychiatric or psychotic issues but cannot meet the criteria as set out in this bill. DFPS assumes that 80 percent of the children currently being admitted would meet the criteria as established in the bill.

The children that do not meet that criteria would be more difficult to place due to residential treatment centers and child placing agencies being less willing to accept placement of a child that may pose a risk of harming other children in the home or facility. This analysis assumes about 10 percent of the current admissions (plus half the minors that are unsuccessful in attempting admission through the probate process) will not meet the requirements as established by this bill and will instead experience seven days of child without placement (CWOP) and then be placed in a child specific contract. According to DFPS, this would affect approximately 650 children per fiscal year and result in a cost of approximately \$4,197,640 in All Funds in fiscal year 2018 and \$4,247,264 in All Funds in fiscal year 2019. According to DFPS, this will also require an additional 94 CVS workers plus ratio related staff (47 FTE). This analysis assumes that each additional FTE would cost approximately \$100,905 per fiscal year for salary, benefits, and other related expenses.

The Office of Court Administration (OCA) does not anticipate a significant fiscal impact to the state court system related to the creation of a new criminal offense. OCA also does not anticipate a significant increase in the caseload or duties of the courts.

Technology

No significant technology-related costs reported by DFPS.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 302 Office of the Attorney General, 529 Health and Human Services Commission, 696 Department of Criminal Justice

LBB Staff: UP, KCA, JJ, DFR, JLi, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 29, 2017

TO: Honorable Richard Peña Raymond, Chair, House Committee on Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Wu (Relating to child protective services suits, motions, and services by the Department of Family and Protective Services.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, Committee Report 1st House, Substituted: a negative impact of (\$10,486,171) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$5,336,246)
2019	(\$5,149,925)
2020	(\$5,149,925)
2021	(\$5,149,925)
2022	(\$5,149,925)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from GR Match For Medicaid 758	Probable Revenue (Loss) from Chld Support Retained Col 787	Probable Savings/(Cost) from Federal Funds 555
2018	(\$4,465,656)	(\$70,590)	(\$800,000)	(\$136,339)
2019	(\$4,318,038)	(\$31,887)	(\$800,000)	(\$122,878)
2020	(\$4,318,038)	(\$31,887)	(\$800,000)	(\$122,878)
2021	(\$4,318,038)	(\$31,887)	(\$800,000)	(\$122,878)
2022	(\$4,318,038)	(\$31,887)	(\$800,000)	(\$122,878)

Fiscal Year	Change in Number of State Employees from FY 2017
2018	14.1
2019	14.1
2020	14.1
2021	14.1
2022	14.1

Fiscal Analysis

The bill would amend the Family Code, Government Code, Human Resources Code, and Penal Code relating to child protective services suits, motions, and services by the Department of Family and Protective Services (DFPS).

The bill would amend the Family Code to require DFPS and the Texas Juvenile Justice Department (TJJD) to coordinate for the provision of services to multi-system youth.

The bill would direct DFPS, with the Permanent Judicial Commission for Children, Youth and Families and other interested parties, to review and make recommendations to the legislature related to jury selection methods in suits affecting the parent-child relationship filed by DFPS.

The bill would prohibit a court from ordering a parent to make child support payments in a pending DFPS case.

The bill would require DFPS, upon request, to provide certain information to a parent's attorney or child's attorney ad litem before the full adversary hearing.

The bill would require DFPS to conduct an annual independent living skill assessment for children in the conservatorship of the state, beginning at 14 years of age. The bill would require DFPS to create a plan to standardize the Preparation for Adult Living Program curriculum and report the plan to the legislature no later than December 1, 2018.

The bill would amend a provision in the Penal Code to apply violations of certain court orders (created elsewhere in the bill) to child abuse or neglect cases, creating an offense.

This bill would take effect on September 1, 2017. The bill stipulates how and when the provisions of the bill are to be applied and lists under which circumstances former law is continued in effect.

Methodology

The bill is estimated to result in a cost of \$5,472,585, in All Funds, in fiscal year 2018, and a cost of \$5,272,803, in All Funds, in fiscal year 2019.

According to DFPS and HHSC, all of the duties and responsibilities associated with implementing the provisions of the bill related to coordinating with TJJD for services to multi-system youth, developing recommendations related to jury selection methods, filing protective orders jointly with a parent, relative or caregiver of the child, postponing the adversary hearing to allow a parent to work with an attorney, requiring all necessary referrals to service providers for parents are done within five days of the adversary hearing, and requiring MCOs in STAR Health ensure continuity of care for a child whose substitute care placement has changed could be accomplished by utilizing existing agency resources.

Depending on the type of substitute care provided to the child, child support payments made on behalf of children in substitute care are either distributed to relative caregivers or split amongst DFPS, the Office of the Attorney General (OAG), and the federal government. According to DFPS, in fiscal year 2016, \$1.8 million of child support collections were passed on to relatives for kinship placements and \$0.8 million was used to offset foster care costs. It is estimated the changes to section 154.001, Family Code, would result in \$1.6 million in lost child support collections revenue in the 2018-19 biennium, a savings of a like amount in DFPS Appropriated Receipts - Child Support Collections, and a cost of a like amount to the General Revenue Fund to replace funding for foster care payments. This analysis assumes the OAG would see an equal loss of \$1.6 million in lost child support collections revenue to the Child Support Retained Collections Account in the 2018-19 biennium because the agency receives an equal share of collections as DFPS.

According to DFPS, the requirement to provide certain information that will be introduced as evidence to the attorney or attorneys representing a parent or a child prior to a full adversary hearing, three additional investigative caseworkers would be necessary to attach evidence to petitions. That would result in a cost of \$336,673, in All Funds, in fiscal year 2018 for salary and benefits and \$314,769, in All Funds, in each fiscal year thereafter. DFPS estimates each removal has an average of 10 photos at \$0.39 cents per photo, resulting in a cost of \$74,408 in All Funds per fiscal year. DFPS estimates each removal has one audio recording at a cost of \$.20 per recording, resulting in a cost of \$3,816 in All Funds per fiscal year.

According to the agency, to provide annually a life skills assessment for children in conservatorship of the state beginning at age 14 would approximately double the amount of assessments currently provided, and would cost approximately \$2.3 million each fiscal year. In addition, the analysis assumes that in order to coordinate services and track compliance, DFPS would require an additional 11.1 full-time equivalent (FTE) positions and \$111,406 for IMPACT database modifications. The analysis assumes that each additional FTE would cost approximately \$88,700 per fiscal year for related benefits and expenses, and approximately \$6,000 in fiscal year 2018 for one-time set up costs.

The Office of Court Administration (OCA) does not anticipate a significant fiscal impact to the state court system related to the creation of a new criminal offense. OCA also does not anticipate a significant increase in the caseload or duties of the courts.

Technology

The total technology cost is estimated to be \$111,406 in fiscal year 2018 for system changes, computer equipment, software licenses, and basic data storage under the contract for data center services.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 696 Department of Criminal Justice

LBB Staff: UP, KCA, JJ, DFR, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 19, 2017

TO: Honorable Richard Peña Raymond, Chair, House Committee on Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Wu (Relating to child protective services suits by the Department of Family and Protective Services.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Introduced: a negative impact of (\$1,999,411) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$1,113,377)
2019	(\$886,034)
2020	(\$886,034)
2021	(\$886,034)
2022	(\$886,034)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable (Cost) from GR Match For Medicaid 758	Probable (Cost) from Federal Funds 555	Change in Number of State Employees from FY 2017
2018	(\$1,102,867)	(\$10,510)	(\$272,591)	9.5
2019	(\$876,189)	(\$9,845)	(\$98,448)	9.5
2020	(\$876,189)	(\$9,845)	(\$98,448)	9.5
2021	(\$876,189)	(\$9,845)	(\$98,448)	9.5
2022	(\$876,189)	(\$9,845)	(\$98,448)	9.5

Fiscal Analysis

The bill would amend and add various provisions to the Family Code relating to child protection suits regarding placement and findings by the Department of Family and Protective Services (DFPS).

The bill would provide that a person's voluntary agreement to temporarily place the person's child in the managing conservatorship of DFPS is inadmissible in a court hearing of a suit affecting the parent-child relationship as evidence that the person abused or neglected the child. The bill would require DFPS to, before the full adversary hearing, provide certain information to a parent's attorney or child's attorney ad litem.

The bill would establish a new statewide uniform basic family service plan for removals at the time of removal and expedite the timeframe in which DFPS provides services to the parents. The bill would require the court to incorporate the basic service plan into the order of the court at the full adversary hearing, with certain exceptions.

The bill would require DFPS to develop a statewide uniform basic family service plan to be filed with the court at each full adversary hearing. The bill stipulates what would need to be included in the basic family service plan, and requires DFPS to make all necessary referrals to service providers for parents to comply with the requirements of the service plan within five days of the full adversary hearing, and to provide certain information to the parents. The bill would require DFPS to develop the statewide uniform basic family service plan not later than December 1, 2017.

The effective date of the bill would be September 1, 2017.

Methodology

The bill is estimated to result in a cost of \$1,385,968, in All Funds, in fiscal year 2018, and a cost of \$984,482, in All Funds, in fiscal year 2019 and in each fiscal year thereafter.

The analysis assumes that the addition of Section 262.013 does not establish explicit authority that would be the basis for a person to enter into a voluntary temporary managing conservatorship agreement with DFPS and therefore assumes no cost associated with this provision. If this provision were interpreted to establish such authority, it could result in additional costs associated with an increase in the number of children entering foster care and an increase in the number of children remaining in foster care without parental rights terminated. However, the number of parents that would enter into a voluntary temporary managing conservatorship under such a scenario is uncertain and an estimate of the fiscal implications cannot be determined, but could be significant.

The requirement to provide certain information to the attorney or attorneys representing a parent or a child prior to a full adversary hearing is assumed to require a DFPS attorney to review the evidence. This estimate assumes 30 minutes review for each set of evidence. Based on 19,079 removals with full adversary hearings that occurred in fiscal year 2016, an additional 6.25 attorneys would be required to conduct the review of evidence prior to hearings. This would result in a cost of \$536,309, in All Funds, in fiscal year 2018 for salary and benefits and \$502,559, in All Funds, in each fiscal year thereafter. Additionally, according to DFPS two investigative caseworkers would be necessary to attach evidence to petitions. That would result in a cost of \$220,646, in All Funds, in fiscal year 2018 for salary and benefits and \$209,846, in All Funds, in each fiscal year thereafter. DFPS estimates each removal has an average of 10 photos at \$0.39 cents per photo, resulting in a cost of \$74,408 per fiscal year. According to DFPS, an additional 1.25 investigative caseworkers would be necessary due to a portion of cases resulting in an extension and an additional hearing so that a parent's attorney can attend the meeting for the basic service plan. That would result in a cost of \$137,904, in All Funds, in fiscal year 2018 for salary and benefits and \$131,154, in All Funds, in each fiscal year thereafter.

DFPS assumes establishment of a new statewide uniform basic service plan would result in a cost in several areas. A one-time cost of \$334,986, in All Funds, for modifications to IMPACT to accommodate the new service plan and an ongoing annual cost of \$66,516 for FTE related technology costs are estimated.

This analysis assumes that the removing worker, which is either the investigation worker or the Family Based Safety Services worker, would review the new basic service plan with the family. This analysis assumes that the statewide uniform basic service plan required by the bill would not require actual service planning skills as it would not change from one family to another. Therefore, this analysis assumes this provision of the bill can be implemented using existing agency resources.

The Office of Court Administration anticipates no significant fiscal impact to the court system resulting from this bill.

Technology

The total technology cost is estimated to be \$483,218 in fiscal year 2018 and \$66,516 in each following year through fiscal year 2022 for system changes, computer equipment, software licenses, and basic data storage under the contract for data center services. This includes a one-time systems upgrade to IMPACT estimated to be \$334,986 in fiscal year 2018.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of

LBB Staff: UP, KCA, JJ, DFR